



**Minnesota Pollution  
Control Agency**

520 Lafayette Road North  
St. Paul, MN 55155-4194

# MS4 SWPPP Application for Reauthorization

for the NPDES/SDS General Small Municipal Separate  
Storm Sewer System (MS4) Permit MNR040000  
reissued with an effective date of August 1, 2013  
Stormwater Pollution Prevention Program (SWPPP) Document

Doc Type: Permit Application

**Instructions:** This application is for authorization to discharge stormwater associated with Municipal Separate Storm Sewer Systems (MS4s) under the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Permit Program. **No fee** is required with the submittal of this application. Please refer to "Example" for detailed instructions found on the Minnesota Pollution Control Agency (MPCA) MS4 website at <http://www.pca.state.mn.us/ms4>.

**Submittal:** This MS4 SWPPP Application for Reauthorization form must be submitted electronically via e-mail to the MPCA at [ms4permitprogram.pca@state.mn.us](mailto:ms4permitprogram.pca@state.mn.us) from the person that is duly authorized to certify this form. All questions with an asterisk (\*) are required fields. All applications will be returned if required fields are not completed.

**Questions:** Contact Claudia Hochstein at 651-757-2881 or [claudia.hochstein@state.mn.us](mailto:claudia.hochstein@state.mn.us), Dan Miller at 651-757-2246 or [daniel.miller@state.mn.us](mailto:daniel.miller@state.mn.us), or call toll-free at 800-657-3864.

## General Contact Information (\*Required fields)

### MS4 Owner (with ownership or operational responsibility, or control of the MS4)

\*MS4 permittee name: City of Moorhead \*County: Clay  
(city, county, municipality, government agency or other entity)

\*Mailing address: P.O. Box 779

\*City: Moorhead \*State: MN \*Zip code: 56561

\*Phone (including area code): 218-299-5386 \*E-mail: bob.zimmerman@ci.moorhead.mn.us

### MS4 General contact (with Stormwater Pollution Prevention Program [SWPPP] implementation responsibility)

\*Last name: Zimmerman \*First name: Robert  
(department head, MS4 coordinator, consultant, etc.)

\*Title: City Engineer

\*Mailing address: P.O. Box 779

\*City: Moorhead \*State: MN \*Zip code: 56561

\*Phone (including area code): 218-299-5386 \*E-mail: bob.zimmerman@ci.moorhead.mn.us

### Preparer information (complete if SWPPP application is prepared by a party other than MS4 General contact)

Last name: Crabtree Naves First name: Andrea  
(department head, MS4 coordinator, consultant, etc.)

Title: Utilities Engineer

Mailing address: P.O. Box 779

City: Moorhead State: MN Zip code: 56561

Phone (including area code): 218-299-5386 E-mail: andrea.crabtree@ci.moorhead.mn.us

## Verification

1. I seek to continue discharging stormwater associated with a small MS4 after the effective date of this Permit, and shall submit this MS4 SWPPP Application for Reauthorization form, in accordance with the schedule in Appendix A, Table 1, with the SWPPP document completed in accordance with the Permit (Part II.D.). ☒ Yes
2. I have read and understand the NPDES/SDS MS4 General Permit and certify that we intend to comply with all requirements of the Permit. ☒ Yes

## Certification (All fields are required)

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- ☒ Yes - I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

*I certify that based on my inquiry of the person, or persons, who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.*

*I am aware that there are significant penalties for submitting false information, including the possibility of civil and criminal penalties.*

This certification is required by Minn. Stat. §§ 7001.0070 and 7001.0540. The authorized person with overall, MS4 legal responsibility must certify the application (principal executive officer or a ranking elected official).

By typing my name in the following box, I certify the above statements to be true and correct, to the best of my knowledge, and that this information can be used for the purpose of processing my application.

Name: Robert Zimmerman

*(This document has been electronically signed)*

Title: City Engineer

Date (mm/dd/yyyy): 12/2/2013

Mailing address: P.O. Box 779

City: Moorhead

State: MN

Zip code: 56561

Phone (including area code): 218-299-5386

E-mail: bob.zimmerman@ci.moorhead.mn.us

**Note:** The application will not be  
processed without certification.

# Stormwater Pollution Prevention Program Document

## I. Partnerships: (Part II.D.1)

- A. List the **regulated small MS4(s)** with which you have established a partnership in order to satisfy one or more requirements of this Permit. Indicate which Minimum Control Measure (MCM) requirements or other program components that each partnership helps to accomplish (List all that apply). Check the box below if you currently have no established partnerships with other regulated MS4s. If you have more than five partnerships, hit the tab key after the last line to generate a new row.

☐ No partnerships with regulated small MS4s

Name and description of partnership	MCM/Other permit requirements involved
Clay County;  The City of Moorhead has a memorandum of understanding with Clay County that the City will provide MS4 responsibility within City limits.	MCM 1, 2, 3, 4, 5 & 6

- B. If you have additional information that you would like to communicate about your partnerships with other regulated small MS4(s), provide it in the space below, or include an attachment to the SWPPP Document, with the following file naming convention: *MS4NameHere\_Partnerships*.

## II. Description of Regulatory Mechanisms: (Part II.D.2)

### Illicit discharges

- A. Do you have a regulatory mechanism(s) that effectively prohibits non-stormwater discharges into your small MS4, except those non-stormwater discharges authorized under the Permit (Part III.D.3.b.)? ☒ Yes ☐ No

#### 1. If yes:

- a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

☒ Ordinance ☐ Contract language  
☐ Policy/Standards ☐ Permits  
☐ Rules  
☐ Other, explain: \_\_\_\_\_

- b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

*Title 3 - Public Health and Sanitation*

*Chapter 8 - Stormwater Management*

*3-8A-1: PURPOSE (C)*

*3-8A-2: DEFINITIONS - PROHIBITED DISCHARGE: (A-E) & STORMWATER*

*3-8A-3: SCOPE - PROHIBITED DISCHARGE: (A)*

*3-8A-4: MANAGEMENT OF SITE VEGETATION: (A & C)*

*3-8E-1: STORMWATER VIOLATIONS AND REPORTING: (A.3 & B)*

*3-8F-1: ENFORCEMENT, PENALTY AND NONCOMPLIANCE FEES*

*3-8G-4: ESTABLISHMENT OF STORMWATER UTILITY FUND: (A)*

*3-8G-5: PURPOSE OF THE FUND: (E & F)*

*9-2-5: PLUMBING FACILITIES AND FIXTURE REQUIREMENTS (G)*

Direct link:

☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere\_IDDEreg*.

2. If no:

Describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

*Within 12 months of permit coverage extension amend the stormwater ordinance to include;*

- *A definition of "nonstormwater"*
- *Criteria for authority to access facilities for illicit discharge inspection*

### Construction site stormwater runoff control

A. Do you have a regulatory mechanism(s) that establishes requirements for erosion and sediment controls and waste controls? ☒ Yes ☐ No

1. If yes:

a. Check which type of regulatory mechanism(s) your organization has (check all that apply):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Ordinance  | <input type="checkbox"/> Contract language |
| <input type="checkbox"/> Policy/Standards      | <input type="checkbox"/> Permits           |
| <input type="checkbox"/> Rules                 |  |
| <input type="checkbox"/> Other, explain: _____ |  |

b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

*Title 3 - Public Health and Sanitation*

*Chapter 8 - Stormwater Management*

*3-8A-2: DEFINITIONS: BEST MANAGEMENT PRACTICES (BMP), BUFFER, CONTROL MEASURES, EROSION, EROSION AND SEDIMENT CONTROL PLAN, EROSION CONTROL, EXPOSED SOIL AREAS, FINAL STABILIZATION, LAND DISTURBING ACTIVITY, MANAGEMENT PRACTICE, PROHIBITED DISCHARGE, SEDIMENT, SEDIMENT CONTROL, STABILIZED, STORMWATER MANAGEMENT, STORMWATER POLLUTION PREVENTION PLAN (SWPPP), AND TEMPORARY PROTECTION*

*3-8A-3: SCOPE: (B.4, C & D)*

*3-8C-2: STORMWATER MANUAL*

*3-8C-4: STORMWATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES: (A & D)*

*3-8D-1: PERMITS REQUIRED: (D.5)*

*3-8D-2: CONSTRUCTION PLANS AND SPECIFICATIONS: (B)*

*3-8D-3: CONSTRUCTION ACTIVITIES: (A-F)*

*3-8E-1: STORMWATER VIOLATIONS AND REPORTING: (A.5)*

*8-1-8: CONTRACTORS' OPERATIONS: (A-G)*

Direct link:

☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere\_CSWreg*.

- B. Is your regulatory mechanism at least as stringent as the MPCA general permit to Discharge Stormwater Associated with Construction Activity (as of the effective date of the MS4 Permit)? ☐ Yes ☒ No

If you answered **yes** to the above question, proceed to C.

If you answered **no** to either of the above permit requirements listed in A. or B., describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*Within 12 months of permit coverage extension amend the current stormwater ordinance to be at least as stringent as the MPCA Construction Stormwater Permit.*

- C. Answer **yes** or **no** to indicate whether your regulatory mechanism(s) requires owners and operators of construction activity to develop site plans that incorporate the following erosion and sediment controls and waste controls as described in the Permit (Part III.D.4.a.(1)-(8)), and as listed below:

- |  |   |
|--|---|
| 1. Best Management Practices (BMPs) to minimize erosion.   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. BMPs to minimize the discharge of sediment and other pollutants.  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. BMPs for dewatering activities.   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 4. Site inspections and records of rainfall events   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 5. BMP maintenance   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 6. Management of solid and hazardous wastes on each project site.  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 7. Final stabilization upon the completion of construction activity, including the use of perennial vegetative cover on all exposed soils or other equivalent means. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 8. Criteria for the use of temporary sediment basins.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*C.8: Within 12 months of permit coverage extension amend the stormwater ordinance to include criteria for the use of temporary sediment basins within 1 mile of an impaired water and greater than 1 mile from an impaired water.*

## Post-construction stormwater management

- A. Do you have a regulatory mechanism(s) to address post-construction stormwater management activities?

☒ Yes ☐ No

1. If **yes**:

- a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Ordinance  | <input type="checkbox"/> Contract language |
| <input type="checkbox"/> Policy/Standards      | <input type="checkbox"/> Permits           |
| <input type="checkbox"/> Rules                 |  |
| <input type="checkbox"/> Other, explain: _____ |  |

- b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

*Title 3 - Public Health and Sanitation*

*Chapter 8 - Stormwater Management*

*3-8C-5: OPERATION, MAINTENANCE AND INSPECTION*

*3-8C-7: PLAN APPLICABILITY*

Direct link:

- ☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere\_PostCSWreg*.

- B. Answer **yes** or **no** below to indicate whether you have a regulatory mechanism(s) in place that meets the following requirements as described in the Permit (Part III.D.5.a.):

1. **Site plan review:** Requirements that owners and/or operators of construction activity submit site plans with post-construction stormwater management BMPs to the permittee for review and approval, prior to start of construction activity. ☒ Yes ☐ No

2. **Conditions for post construction stormwater management:** Requires the use of any combination of BMPs, with highest preference given to Green Infrastructure techniques and practices (e.g., infiltration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, green roofs, etc.), necessary to meet the following conditions on the site of a construction activity to the Maximum Extent Practicable (MEP):
- a. For new development projects – no net increase from pre-project conditions (on an annual average basis) of: ☐ Yes ☒ No
    - 1) Stormwater discharge volume, unless precluded by the stormwater management limitations in the Permit (Part III.D.5.a(3)(a)).
    - 2) Stormwater discharges of Total Suspended Solids (TSS).
    - 3) Stormwater discharges of Total Phosphorus (TP).
  - b. For redevelopment projects – a net reduction from pre-project conditions (on an annual average basis) of: ☐ Yes ☒ No
    - 1) Stormwater discharge volume, unless precluded by the stormwater management limitations in the Permit (Part III.D.5.a(3)(a)).
    - 2) Stormwater discharges of TSS.
    - 3) Stormwater discharges of TP.
3. **Stormwater management limitations and exceptions:**
- a. Limitations
    - 1) Prohibit the use of infiltration techniques to achieve the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)) when the infiltration structural stormwater BMP will receive discharges from, or be constructed in areas: ☐ Yes ☒ No
      - a) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA.
      - b) Where vehicle fueling and maintenance occur.
      - c) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
      - d) Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.
    - 2) Restrict the use of infiltration techniques to achieve the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)), without higher engineering review, sufficient to provide a functioning treatment system and prevent adverse impacts to groundwater, when the infiltration device will be constructed in areas: ☐ Yes ☒ No
      - a) With predominately Hydrologic Soil Group D (clay) soils.
      - b) Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.
      - c) Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, subp. 13.
      - d) Where soil infiltration rates are more than 8.3 inches per hour.
    - 3) For linear projects where the lack of right-of-way precludes the installation of volume control practices that meet the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)), the permittee's regulatory mechanism(s) may allow exceptions as described in the Permit (Part III.D.5.a(3)(b)). The permittee's regulatory mechanism(s) shall ensure that a reasonable attempt be made to obtain right-of-way during the project planning process. ☐ Yes ☒ No
4. **Mitigation provisions:** The permittee's regulatory mechanism(s) shall ensure that any stormwater discharges of TSS and/or TP not addressed on the site of the original construction activity are addressed through mitigation and, at a minimum, shall ensure the following requirements are met:
- a. Mitigation project areas are selected in the following order of preference: ☐ Yes ☒ No
    - 1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
    - 2) Locations within the same Minnesota Department of Natural Resource (DNR) catchment area as the original construction activity.
    - 3) Locations in the next adjacent DNR catchment area up-stream
    - 4) Locations anywhere within the permittee's jurisdiction.
  - b. Mitigation projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. ☐ Yes ☒ No
  - c. Routine maintenance of structural stormwater BMPs already required by this permit cannot be used to meet mitigation requirements of this part. ☐ Yes ☒ No

- d. Mitigation projects shall be completed within 24 months after the start of the original construction activity. ☐ Yes ☒ No
- e. The permittee shall determine, and document, who will be responsible for long-term maintenance on all mitigation projects of this part. ☐ Yes ☒ No
- f. If the permittee receives payment from the owner and/or operator of a construction activity for mitigation purposes in lieu of the owner or operator of that construction activity meeting the conditions for post-construction stormwater management in Part III.D.5.a(2), the permittee shall apply any such payment received to a public stormwater project, and all projects must be in compliance with Part III.D.5.a(4)(a)-(e). ☐ Yes ☒ No
5. **Long-term maintenance of structural stormwater BMPs:** The permittee's regulatory mechanism(s) shall provide for the establishment of legal mechanisms between the permittee and owners or operators responsible for the long-term maintenance of structural stormwater BMPs not owned or operated by the permittee, that have been implemented to meet the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)). This only includes structural stormwater BMPs constructed after the effective date of this permit and that are directly connected to the permittee's MS4, and that are in the permittee's jurisdiction. The legal mechanism shall include provisions that, at a minimum:
- a. Allow the permittee to conduct inspections of structural stormwater BMPs not owned or operated by the permittee, perform necessary maintenance, and assess costs for those structural stormwater BMPs when the permittee determines that the owner and/or operator of that structural stormwater BMP has not conducted maintenance. ☒ Yes ☐ No
- b. Include conditions that are designed to preserve the permittee's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by the permittee, when those responsibilities are legally transferred to another party. ☒ Yes ☐ No
- c. Include conditions that are designed to protect/preserve structural stormwater BMPs and site features that are implemented to comply with the Permit (Part III.D.5.a(2)). If site configurations or structural stormwater BMPs change, causing decreased structural stormwater BMP effectiveness, new or improved structural stormwater BMPs must be implemented to ensure the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)) continue to be met. ☐ Yes ☒ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within twelve (12) months of the date permit coverage is extended, these permit requirements are met:

*B.2.a: Within 12 months of permit coverage extension amend the current stormwater ordinance for new development to meet the MPCA permit requirements to the maximum extent practicable. A technical analysis of local soil and groundwater conditions will be completed to evaluate feasibility and guide subsequent ordinance language.*

*B.2.b: Within 12 months of permit coverage extension amend the current stormwater ordinance for redevelopment to meet the MPCA permit requirements to the maximum extent practicable. A technical analysis of local soil and groundwater conditions will be completed to evaluate feasibility and guide subsequent ordinance language.*

*B.3.a.1 & 2: Within 12 months of permit coverage extension amend the current stormwater ordinance prohibiting and restricting infiltration practices as outlined in the MPCA Permit.*

*B.3.a.3: Within 12 months of permit coverage extension amend the current stormwater ordinance to include the exceptions for linear projects as outlined in the MPCA Permit.*

*B.4.a-f: Within 12 months of permit coverage extension amend the current stormwater ordinance to include mitigation provisions in the MPCA permit where mitigation is required or appropriate.*

*B.5.c: Within 12 months of permit coverage extension amend the current stormwater ordinance to include conditions to protect/preserve structural BMPs and site features that are implemented to comply with the MPCA Permit.*

### III. Enforcement Response Procedures (ERPs): (Part II.D.3)

- A. Do you have existing ERPs that satisfy the requirements of the Permit (Part III.B.)? ☒ Yes ☐ No
- If **yes**, attach them to this form as an electronic document, with the following file naming convention: *MS4NameHere\_ERPs*.
  - If **no**, describe the tasks and corresponding schedules that will be taken to assure that, with twelve (12) months of the date permit coverage is extended, these permit requirements are met:

B. Describe your ERPs:

*The City of Moorhead currently has four (4) Enforcement Response Procedure (ERP) plans in place that cover:*

- *Stormwater Pollution Prevention Plans*
- *Illicit Discharge and Detection*
- *Construction Site Inspection*
- *Post Construction*

*Enforcement response within the plans consists of various types of actions:*

- *Notice of Violation – A written notice issued by the City of Moorhead to the party violating the City's ordinance, permit or standards.*
- *Administrative or Criminal Penalty – A written document that is issued by the City of Moorhead to the party that has not corrected a previous NOV for violating the City's ordinance, permit or standards.*
- *Stop work order – A written document to suspend work until the site is brought into compliance.*
- *Revoke City GEC Stormwater Permit – A written notice revoking the stormwater management plan or stormwater permit until the site is brought into compliance. Permits for other construction sites will not be issued until the site in violation is brought into compliance.*

#### IV. Storm Sewer System Map and Inventory: (Part II.D.4.)

- A. Describe how you manage your storm sewer system map and inventory:

*The storm sewer system is managed with GIS. The GIS system is routinely updated based on data from inspections and as-built plans for new construction and reconstruction projects.*

- B. Answer **yes** or **no** to indicate whether your storm sewer system map addresses the following requirements from the Permit (Part III.C.1.a-d), as listed below:

1. The permittee's entire small MS4 as a goal, but at a minimum, all pipes 12 inches or greater in diameter, including stormwater flow direction in those pipes. ☒ Yes ☐ No
2. Outfalls, including a unique identification (ID) number assigned by the permittee, and an associated geographic coordinate. ☒ Yes ☐ No
3. Structural stormwater BMPs that are part of the permittee's small MS4. ☒ Yes ☐ No
4. All receiving waters. ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

- C. Answer **yes** or **no** to indicate whether you have completed the requirements of 2009 Minnesota Session Law, Ch. 172. Sec. 28: with the following inventories, according to the specifications of the Permit (Part III.C.2.a.-b.), including:

1. All ponds within the permittee's jurisdiction that are constructed and operated for purposes of water quality treatment, stormwater detention, and flood control, and that are used for the collection of stormwater via constructed conveyances. ☒ Yes ☐ No
2. All wetlands and lakes, within the permittee's jurisdiction, that collect stormwater via constructed conveyances. ☒ Yes ☐ No

- D. Answer **yes** or **no** to indicate whether you have completed the following information for each feature inventoried.

1. A unique identification (ID) number assigned by the permittee. ☒ Yes ☐ No
2. A geographic coordinate. ☒ Yes ☐ No
3. Type of feature (e.g., pond, wetland, or lake). This may be determined by using best professional judgment. ☒ Yes ☐ No

If you have answered **yes** to all above requirements, and you have already submitted the Pond Inventory Form to the MPCA, then you do not need to resubmit the inventory form below.

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

- E. Answer **yes** or **no** to indicate if you are attaching your pond, wetland and lake inventory to the MPCA on the form provided on the MPCA website at: <http://www.pca.state.mn.us/ms4>, according to the specifications of Permit (Part III.C.2.b.(1)-(3)). Attach with the following file naming convention: *MS4NameHere\_inventory*. ☐ Yes ☒ No



If you answered **no**, the inventory form must be submitted to the MPCA MS4 Permit Program within 12 months of the date permit coverage is extended.

## V. Minimum Control Measures (MCMs) (Part II.D.5)

### A. MCM1: Public education and outreach

1. The Permit requires that, within 12 months of the date permit coverage is extended, existing permittees revise their education and outreach program that focuses on illicit discharge recognition and reporting, as well as other specifically selected stormwater-related issue(s) of high priority to the permittee during this permit term. Describe your **current** educational program, including **any high-priority topics included**:

*The City of Moorhead has established an educational program that focuses on information relevant to citizens, business owners, contractors and City staff. The City uses our stormwater website, newsletters, brochures and a local non-profit group named River Keepers.*

- *The website contains brochures to educate the public and business owners on best management practices to prevent illicit discharges to the storm sewer system. Every brochure has the 24-hour stormwater hotline to report an illicit discharge.*

- *At least once per year a stormwater related article is published in the Insights and Communicator newsletters. The Insights is distributed to the public and the Communicator is distributed to City staff.*

- *River Keepers hosts educational events such as the water festival, storm drain marking program, S.S. Ruby boat tours and other stormwater related workshops.*

- *High-priority topics have included pet waste, lawn care, and general stormwater issues.*

2. List the categories of BMPs that address your public education and outreach program, including the distribution of educational materials and a program implementation plan. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the U.S. Environmental Protection Agency's (EPA) *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>).

**If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Newsletters	At least one article per year in the Insights and Communicator newsletters. Number of newsletters distributed.
Website	Update the website as needed with educational material. Number of hits to the stormwater webpage each year.
Presentation	Presentations are given when requested, number of participants attending and topic of presentation.
Community hotline and e-mail address	Information is on the City website and distributed in educational materials. Track the number of calls and e-mails to the community hotline and e-mail address.
	Educate City staff on illicit discharges. Annual stormwater article published in the employee newsletter. Number of newsletters distributed.
	Educate citizens about the Clay County Household Hazardous Waste Program with information on the website, newsletter article and brochures. The amount of hazardous waste collected in Clay County each year.
	Educate business owners with target mailings and newsletter article. Number of newsletters and brochures distributed.
Construction site run-off control	Educate contractors on the erosion/sediment control standards for residential construction, commercial construction and utility construction. Track presentations and correspondence.
Pollution Prevention/Good Housekeeping	Train park, building and fleet maintenance staff. Number of employees trained annually.
Red River Water Festival	River Keepers is a local non-profit group that conducts the annual Red River Water Festival for area students. City staff

	gives an educational presentation, does hands on activity with the students and distributes educational material. Number of students in attendance.
Storm Drain Marking Program	The City provides River Keepers with supplies and a storm sewer map for the storm drain marking program. City staff promotes the program through the website and brochures. The number of storm drains marked is reported each year.
S.S. Ruby tours	Educational tours are given about history, geography, wildlife and stormwater. Number of passengers are reported to the City each year.
<b>BMP categories to be implemented</b>	<b>Measurable goals and timeframes</b>
	Place seasonally appropriate educational brochures at City Hall. Track the number of brochures printed. Website, number of hits to the stormwater webpage. Target mailings in response to complaints or identified issues. The number and name of brochures mailed. High priority stormwater related issues for residential areas include pet waste, lawn care, and car washing. Target mailings, number and name of brochure/fact sheet mailed. High priority stormwater related issues for commercial properties include, trash, illicit discharge, fats oil and grease.
Brochures/Fact Sheets	
Community educational events	River Keepers will host at least 2 educational events related to water conservation, pollution prevention and sustainable river use. River Keepers will annually report on two events each calendar year. Number of participants at the event, date of the event, and copies of educational materials distributed.
Program Evaluation	Evaluate the education program yearly. Is the material effective and appropriate for our target audience? Document citizen feedback related to the SWPPP.

3. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Utilities Engineer - Stormwater*

## B. MCM2: Public participation and involvement

1. The Permit (Part III.D.2.a.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement a public participation/involvement program to solicit public input on the SWPPP. Describe your current program:

*The City of Moorhead holds a combined public hearing and annual report meeting at a City council meeting typically in May or June of each year. Staff presents the previous year activities to the City Council. A notice is published in the local newspaper 30 days and 15 days in advance of the meeting. At the meeting the City affords an opportunity for interested citizens to be heard with respect to the SWPPP. Written comments on the SWPPP may also be submitted in advance of the public meeting.*

2. List the categories of BMPs that address your public participation/involvement program, including solicitation and documentation of public input on the SWPPP. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

<b>Established BMP categories</b>	<b>Measurable goals and timeframes</b>
Public Notice	Notice for the public hearing and annual meeting is given in the local newspaper 30 days and 15 days in advance of the annual meeting.
Annual Meeting	At the meeting, the City will afford an opportunity for interested citizens to be heard with respect to the Stormwater Pollution Prevention Program (SWPPP), written comments may also be submitted in advance of the meeting. A record of comment from

	the meeting regarding the SWPPP will be kept on file.
Public Input	Number of phone calls and e-mails to the community hotline and e-mail address to report illicit discharges, comment on the SWPPP, report construction site violations, and voice any other stormwater related questions or concerns.
Website – Stormwater Pollution Prevention Program (SWPPP)	The SWPPP is made available on the City's website to allow access to the document for public review and comment. A copy of the document is also available upon request to citizen's that do not have internet access.
Storm Drain Marking	Number of storm drains marked with "No Dumping Drains to River" decals. Number of volunteers participating in the program. City staff provides River Keepers with supplies for the storm drain marking program, GIS map of the storm sewer system, and promotes the program through our website and brochures.
<b>BMP categories to be implemented</b>	<b>Measurable goals and timeframes</b>
Community educational events	River Keepers will host at least 2 educational events related to water conservation, pollution prevention and sustainable river use. River Keepers will annually report on two events each calendar year. Number of participants at the event, date of the event, and copies of educational materials distributed.
Annual Meeting	The annual summary report of the previous year's SWPPP activities is made available through the City Council agenda on the City's website.

3. Do you have a process for receiving and documenting citizen input? ☒ Yes ☐ No

If you answered **no** to the above permit requirement, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

4. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Utilities Engineer - Stormwater*

### C. MCM 3: Illicit discharge detection and elimination

1. The Permit (Part III.D.3.) requires that, within 12 months of the date permit coverage is extended, existing permittees revise their current program as necessary, and continue to implement and enforce a program to detect and eliminate illicit discharges into the small MS4. Describe your current program:

*The City of Moorhead has a stormwater ordinance that prohibits illicit discharges and connections. Our Emergency Response Procedures (ERPs) guide actions taken after an illicit discharge has been reported. A 24-hour hotline and e-mail address have been established to report illicit discharges to City staff.*

2. Does your Illicit Discharge Detection and Elimination Program meet the following requirements, as found in the Permit (Part III.D.3.c.-g.)?

- |  |   |
|--|---|
| a. Incorporation of illicit discharge detection into all inspection and maintenance activities conducted under the Permit (Part III.D.6.e.-f.)Where feasible, illicit discharge inspections shall be conducted during dry-weather conditions (e.g., periods of 72 or more hours of no precipitation).  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| b. Detecting and tracking the source of illicit discharges using visual inspections. The permittee may also include use of mobile cameras, collecting and analyzing water samples, and/or other detailed procedures that may be effective investigative tools.   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| c. Training of all field staff, in accordance with the requirements of the Permit (Part III.D.6.g.(2)), in illicit discharge recognition (including conditions which could cause illicit discharges), and reporting illicit discharges for further investigation.  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Identification of priority areas likely to have illicit discharges, including at a minimum, evaluating land use associated with business/industrial activities, areas where illicit discharges have been identified in the past, and areas with storage of large quantities of significant materials that could result in an illicit discharge. | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Procedures for the timely response to known, suspected, and reported illicit discharges.  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| f. Procedures for investigating, locating, and eliminating the source of illicit discharges.   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

- g. Procedures for responding to spills, including emergency response procedures to prevent spills from entering the small MS4. The procedures shall also include the immediate notification of the Minnesota Department of Public Safety Duty Officer, if the source of the illicit discharge is a spill or leak as defined in Minn. Stat. § 115.061. ☒ Yes ☐ No
- h. When the source of the illicit discharge is found, the permittee shall use the ERPs required by the Permit (Part III.B.) to eliminate the illicit discharge and require any needed corrective action(s). ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

*C.2.c - Within 12 months of permit coverage extension an electronic form of educational training materials will be sent to all City staff once per year to help field staff identify illicit discharges. The educational material will also include who they should report a possible illicit discharge to for further investigation.*

*C.2.d - Within 12 months of permit coverage extension an evaluation of land use will be conducted. The evaluation will include areas with large quantities of materials stored that could result in an illicit discharge to the storm sewer system. Areas that are identified from the land use evaluation shall have additional illicit discharge inspections because of the higher likelihood of an illicit discharge to occur.*

3. List the categories of BMPs that address your illicit discharge, detection and elimination program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s*

(<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>).

**If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
GIS storm sewer map	A storm sewer map has been completed in ArcGIS format. The City will update the map as needed.
Ordinance	Annually review the stormwater ordinance and identify changes for future revisions.
	To detect and eliminate illicit discharges and connections. Enforcement Response Procedures (ERPs) were created as a guide when investigating a report of an illicit discharge.
	City employees, business owners, and the public are informed about illicit discharges through newsletter articles, brochures and fact sheets.
	The City has a 24-hour hotline to report and illicit discharge to the storm sewer system (218.299.5386).
	Televise at least 2,000 feet of storm sewer is annually to inspect for illicit discharges or connections.
	The City promotes the use of the Clay County Hazardous Waste Facility on our website, newsletters and brochures. The amount of hazardous waste collected in Clay County each year.
Illicit Discharge	
	Number of brochures or educational materials distributed to the public that contain the 24-hour hotline and e-mail address to report an illicit discharge.
Illicit Discharge Detection hotline or e-mail	Track the number of calls and e-mails reporting an illicit discharge.
	Inspect 20% of outfalls each year for illicit discharges or more often areas that have received a report of an illicit discharge.
Inspections	Televise at least 2000 linear feet each year of the storm sewer system to inspection for illicit discharges.
BMP categories to be implemented	Measurable goals and timeframes
	Pipes that are 12 inches in diameter or greater must be shown on the map. All known pipes of all sizes are currently mapped in our GIS system. The storm sewer system will be updated as needed, but at least annually.
GIS storm sewer map	

Training	Send out training material to City staff via e-mail once per year on illicit discharges to help field staff identify what is an illicit discharge. Number of employees receiving training material on illicit discharge each year.
Illicit discharge inspections	Quarterly inspections during dry weather to high risk inspections areas that were identified as part of the land use evaluation process.

4. Do you have procedures for record-keeping within your Illicit Discharge Detection and Elimination (IDDE) program as specified within the Permit (Part III.D.3.h.)? ☒ Yes ☐ No

If you answered **no**, indicate how you will develop procedures for record-keeping of your Illicit Discharge, Detection and Elimination Program, within 12 months of the date permit coverage is extended:

5. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Utilities Engineer - Stormwater*

#### D. MCM 4: Construction site stormwater runoff control

1. The Permit (Part III.D.4) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement and enforce a construction site stormwater runoff control program. Describe your current program:

*In 2005 the City of Moorhead expanded its stormwater ordinance to meet the MPCA General Stormwater Permit for Construction Activity requirements. Procedures and documents were put in place for site plan review, site inspection and enforcement.*

2. Does your program address the following BMPs for construction stormwater erosion and sediment control as required in the Permit (Part III.D.4.b.):

- Have you established written procedures for site plan reviews that you conduct prior to the start of construction activity? ☒ Yes ☐ No
- Does the site plan review procedure include notification to owners and operators proposing construction activity that they need to apply for and obtain coverage under the MPCA's general permit to *Discharge Stormwater Associated with Construction Activity No. MN R100001*? ☒ Yes ☐ No
- Does your program include written procedures for receipt and consideration of reports of noncompliance or other stormwater related information on construction activity submitted by the public to the permittee? ☒ Yes ☐ No
- Have you included written procedures for the following aspects of site inspections to determine compliance with your regulatory mechanism(s):
  - Does your program include procedures for identifying priority sites for inspection? ☒ Yes ☐ No
  - Does your program identify a frequency at which you will conduct construction site inspections? ☒ Yes ☐ No
  - Does your program identify the names of individual(s) or position titles of those responsible for conducting construction site inspections? ☒ Yes ☐ No
  - Does your program include a checklist or other written means to document construction site inspections when determining compliance? ☒ Yes ☐ No
- Does your program document and retain construction project name, location, total acreage to be disturbed, and owner/operator information? ☒ Yes ☐ No
- Does your program document stormwater-related comments and/or supporting information used to determine project approval or denial? ☒ Yes ☐ No
- Does your program retain construction site inspection checklists or other written materials used to document site inspections? ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met.

3. List the categories of BMPs that address your construction site stormwater runoff control program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>). If you have more than five categories, hit the tab key

after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Ordinance	In 2005 the City expanded its existing stormwater ordinance to include requirements to meet the MPCA General Stormwater permit for Construction Activity.
Permits, Construction Standards, and Inspection Procedures	The City receives applications and issues stormwater permits. The City has developed construction standards, and standard operating procedures (SOPs) for site inspections. Materials are reviewed annually and updated as needed.
Waste Control	Waste control for construction site operators are incorporated into the Stormwater Pollution Control Plan for City let projects. Number of SWPPP's which include waste control.  Residential, commercial and utility construction project standards with waste control guidelines are on the website. Review standards and update as needed.
Site Plan Review	A checklist was developed for the review of construction site temporary erosion and sediment control plans and specifications. Plans are received by Building Codes staff and a notice is sent to Engineering staff for review. During the review process staff determines how much land is disturbed, if an MPCA construction permit is needed and if the project meets the MPCA construction permit requirements.
Construction Standards	Sediment control BMPs are outlined in the Erosion and Sediment control standards on our website for residential, commercial and utility construction. Review standards and update as needed.
Site Inspection and Enforcement	Standard Operating Procedures (SOP) were created for construction site inspections. Report the number of site inspections and the number of violations each year.
BMP categories to be implemented	Measurable goals and timeframes
Site Plan Review Checklist	Within 12 months of the permit coverage extension staff will upload the site plan review checklist to stormwater webpage for easy access for contractors, consultants and developers.  Annually review site plan review checklist and update as needed.
Ordinance	Review and update the ordinance as needed to meet the MPCA General Stormwater Permit for Construction Activity requirements. Review ordinance once per permit term and update as needed.
Construction Standards	Within 6 months after permit coverage is extended update residential, commercial and utility Erosion/Sediment control standards to meet the requirements of the MPCA Construction Permit.

4. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

Utilities Engineer - Stormwater

#### E. MCM 5: Post-construction stormwater management

1. The Permit (Part III.D.5.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement and enforce a post-construction stormwater management program. Describe your current program:

*The City has a stormwater ordinance for new development and redevelopment projects. Site plan reviews are conducted to ensure proper site design. The City inspects and maintains installed stormwater BMPs located throughout Moorhead. Preventative and corrective maintenance is performed on City owned stormwater BMPs.*

2. Have you established written procedures for site plan reviews that you will conduct prior to the start of construction activity? ☒ Yes ☐ No
3. Answer **yes** or **no** to indicate whether you have the following listed procedures for documentation of

post-construction stormwater management according to the specifications of Permit (Part III.D.5.c.):

- a. Any supporting documentation that you use to determine compliance with the Permit (Part III.D.5.a), including the project name, location, owner and operator of the construction activity, any checklists used for conducting site plan reviews, and any calculations used to determine compliance? ☐ Yes ☒ No
- b. All supporting documentation associated with mitigation projects that you authorize? ☐ Yes ☒ No
- c. Payments received and used in accordance with Permit (Part III.D.5.a.(4)(f))? ☐ Yes ☒ No
- d. All legal mechanisms drafted in accordance with the Permit (Part III.D.5.a.(5)), including date(s) of the agreement(s) and names of all responsible parties involved? ☐ Yes ☒ No

If you answered **no** to any of the above permit requirements, describe the steps that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met.

*E.3.a-d Within 12 months of permit coverage extension amend the current stormwater ordinance to meet the permit requirements for post-construction stormwater management and develop standard operating procedures for E.3.a-d.*

4. List the categories of BMPs that address your post-construction stormwater management program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Inspections of installed stormwater BMPs for Post-construction	Annually inspection 20% of city-owned BMPs.
Site Plan review for new development and redevelopment	Number of site plan reviews performed annually. Number of City let projects. Number of new structural or non-structural stormwater treatment BMPs created. Compile data for annual report.
Ordinance	Stormwater ordinance was expanded to include requirements for new development and redevelopment based on the previous MPCA permit requirements. The ordinance requirements are implemented through the site plan review process. Compile a list of changes for future ordinance and update as needed.
Long-term Maintenance	Inspect and maintain installed City owned stormwater BMPs.
BMP categories to be implemented	Measurable goals and timeframes
Develop written standard operating procedures for site plan review	Within 3 months of permit coverage extension an SOP for site plan review must be developed to include post-construction maintenance. Updated as needed.
Update ordinance to meet new MPCA permit requirements	Revise existing stormwater ordinance within 12 months of permit coverage to meet MPCA permit requirements. Compile a list of changes for future ordinances and update as needed.
Document pertinent project information	Maintain all related documents pertaining to each new or redevelopment project in a more user-friendly filing system for better records management. Implement within 6 months.

5. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

*Utilities Engineer - Stormwater*

## F. MCM 6: Pollution prevention/good housekeeping for municipal operations



1. The Permit (Part III.D.6.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement an operations and maintenance program that prevents or reduces the discharge of pollutants from the permittee owned/operated facilities and operations to the small MS4. Describe your current program:

*The City of Moorhead currently inspects catch basins, storm sewer pipe, stormwater ponds, outfalls and exposed stockpiles per established schedule. Mechanical street sweepers are used to remove sediment and debris from all City streets. Street sweeping typically begins in early spring and finishes in late fall.*

*The Parks Department, fleet maintenance and building maintenance staff are trained on such topics as;*

- *Good Housekeeping and Spill Prevention*
- *Vehicle and Equipment Washing*
- *Vehicle and Equipment Maintenance*
- *Street Maintenance*
- *Outdoor Storage of Materials and Wastes*
- *Landscaping and Lawn Care*

2. Do you have a facilities inventory as outlined in the Permit (Part III.D.6.a.)? ☒ Yes ☐ No
3. If you answered **no** to the above permit requirement in question 2, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

4. List the categories of BMPs that address your pollution prevention/good housekeeping for municipal operations program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. For an explanation of measurable goals, refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (<http://www.epa.gov/npdes/pubs/measurablegoals.pdf>).

**If you have more than five categories,** hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Street Sweeping	Track the start date and end date that the sweepers are removing debris from the streets. Report the quantity of debris removed each year.
Catch basin cleaning and inspections	Number of catch basins cleaned and inspected each year.
Inspections – Stormwater Ponds and Outfalls	Inspect 20% of ponds and outfalls each year.
Storm sewer televising	Televising at least 2,000 feet of storm sewer annually.
Inspections – Exposed stockpiles	Inspect stockpiles annually
Employee Training	Annual newsletter article. Train park, fleet maintenance and building maintenance staff.
Emergency spill response plan	Emergency spill response plans for the Joint Public Works, Public Works, Transfer Station, Wastewater Treatment Facility and field equipment will be reviewed annually and updated as needed by the appropriate staff.
BMP categories to be implemented	Measurable goals and timeframes
Employee Training	Distribute training materials annually through e-mail to all City staff. Number of City staff that receives training material.
Update Facility Inventory	Update existing public owned facility inventory as needed.
Inspections - Exposed stockpiles	Increase stockpile inspection to a quarterly event instead of an annual event.
Pond Assessment Procedures & Schedule	Develop procedures and a schedule for determining TSS and TP treatment effectiveness of all city-owned ponds used for the treatment of stormwater within 12 months after the extension of permit coverage.

5. Does discharge from your MS4 affect a Source Water Protection Area (Permit Part III.D.6.c.)? ☒ Yes ☐ No



- a. If **no**, continue to 6.
- b. If **yes**, the Minnesota Department of Health (MDH) is in the process of mapping the following items. Maps are available at <http://www.health.state.mn.us/divs/eh/water/swp/maps/index.htm>. Is a map including the following items available for your MS4:
- 1) Wells and source waters for drinking water supply management areas identified as vulnerable under Minn. R. 4720.5205, 4720.5210, and 4720.5330? ☐ Yes ☒ No
  - 2) Source water protection areas for surface intakes identified in the source water assessments conducted by or for the Minnesota Department of Health under the federal Safe Drinking Water Act, U.S.C. §§ 300j – 13? ☒ Yes ☐ No
- c. Have you developed and implemented BMPs to protect any of the above drinking water sources? ☒ Yes ☐ No
6. Have you developed procedures and a schedule for the purpose of determining the TSS and TP treatment effectiveness of all permittee owned/operated ponds constructed and used for the collection and treatment of stormwater, according to the Permit (Part III.D.6.d.)? ☐ Yes ☒ No
7. Do you have inspection procedures that meet the requirements of the Permit (Part III.D.6.e.(1)-(3)) for structural stormwater BMPs, ponds and outfalls, and stockpile, storage and material handling areas? ☐ Yes ☒ No
8. Have you developed and implemented a stormwater management training program commensurate with each employee's job duties that:
- a. Addresses the importance of protecting water quality? ☒ Yes ☐ No
  - b. Covers the requirements of the permit relevant to the duties of the employee? ☒ Yes ☐ No
  - c. Includes a schedule that establishes initial training for new and/or seasonal employees and recurring training intervals for existing employees to address changes in procedures, practices, techniques, or requirements? ☒ Yes ☐ No
9. Do you keep documentation of inspections, maintenance, and training as required by the Permit (Part III.D.6.h.(1)-(5))? ☒ Yes ☐ No
- If you answered **no** to any of the above permit requirements listed in **Questions 5 – 9**, then describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:
- F.6 Develop procedures and a schedule for determining TSS and TP treatment effectiveness of all City owned stormwater ponds that are used to collect and treat stormwater runoff.*
- F.7 The City of Moorhead will increase the exposed stockpile inspections from annually to quarterly per year.*
10. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:
- Utilities Engineer - Stormwater*

## VI. Compliance Schedule for an Approved Total Maximum Daily Load (TMDL) with an Applicable Waste Load Allocation (WLA) (Part II.D.6.)

- A. Do you have an approved TMDL with a Waste Load Allocation (WLA) prior to the effective date of the Permit? ☐ Yes ☒ No
1. If **no**, continue to section VII.
  2. If **yes**, fill out and attach the MS4 Permit TMDL Attachment Spreadsheet with the following naming convention: *MS4NameHere\_TMDL*.
- This form is found on the MPCA MS4 website: <http://www.pca.state.mn.us/ms4>.

## VII. Alum or Ferric Chloride Phosphorus Treatment Systems (Part II.D.7.)

- A. Do you own and/or operate any Alum or Ferric Chloride Phosphorus Treatment Systems which are regulated by this Permit (Part III.F.)? ☐ Yes ☒ No

1. If **no**, this section requires no further information.
2. If **yes**, you own and/or operate an Alum or Ferric Chloride Phosphorus Treatment System within your small MS4, then you must submit the Alum or Ferric Chloride Phosphorus Treatment Systems Form supplement to this document, with the following naming convention: *MS4NameHere\_TreatmentSystem*.

This form is found on the MPCA MS4 website: <http://www.pca.state.mn.us/ms4>.

## VIII. Add any Additional Comments to Describe Your Program

## Chapter 8

# STORM WATER MANAGEMENT

## ARTICLE A. GENERAL PROVISIONS

### 3-8A-1: PURPOSE:

- A. This chapter sets forth uniform requirements for stormwater management systems within the city of Moorhead. In the event of any conflict between the provisions of this chapter or other regulations adopted by the city of Moorhead, Clay County, state or federal authorities, the more restrictive standard prevails.
- B. The objectives of this chapter are as follows:
1. To promote, preserve, and enhance the natural resources within the city of Moorhead from adverse or undesirable impacts occasioned by development or other activities;
  2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater quantity and quality management practices;
  3. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on stormwater quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses;
  4. To establish detailed review standards and procedures for land development activities throughout the city of Moorhead, thereby achieving a balance between urban growth and development and the protection of water quality; and
  5. To provide for adequate stormwater system analysis and design as necessary to protect public and private property, water quality and existing natural resources.
- C. This chapter applies in the city of Moorhead, Minnesota, and to persons outside the city who are, by contract or agreement with the city, users of the city stormwater management system. Except as otherwise provided herein, the city engineer shall administer, implement, and enforce the provisions of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8A-2: DEFINITIONS:**

For the purpose of this chapter, the following terms, phrases, and words, and their derivatives, shall have the meanings as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

**APPLICANT:** Any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, stormwater plan approval, stormwater permit or any other permit which allows land disturbing activities. "Applicant" also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

**BASE FLOOD OR REGIONAL FLOOD OR 100-YEAR FLOOD<sup>1</sup>:** The flood having a one percent (1%) chance or probability of being equaled or exceeded in any given year (i.e., 100-year flood).

**BEST MANAGEMENT PRACTICES (BMP):** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by federal, state, or designated areawide planning agencies or included in the "Minnesota Stormwater Manual".

**BMPs:** Measures designed to: a) prevent pollutants from leaving a specific area; b) reduce/eliminate the introduction of pollutants; c) protect sensitive areas; or d) prevent the interaction between precipitation and pollutants.

**BUFFER:** A protective vegetated zone located adjacent to a natural resource, such as a "water of the state" that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.

The buffer strip begins at the "ordinary high water mark" for wetlands and channel for rivers and streams. This start point corresponds to the Minnesota department of natural resources (DNR) definition of a "shoreline" in Minnesota rules 6115.0030.

**CITY:** The city of Moorhead or the city council of the city of Moorhead.

**CITY ENGINEER:** The city engineer of the city of Moorhead or authorized agent.

**COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This term is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

**CONTROL MEASURE:** A practice or combination of practices to control erosion and attendant pollution, see also definition of Best Management Practices (BMP).

**COUNCIL:** The city council of the city of Moorhead.

**DETENTION FACILITY:** A natural or manmade structure, including wetlands used for the temporary storage of runoff and which may contain a permanent pool of water, or may be dry during times of no runoff.

**DEVELOPER:** A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

**DEVELOPMENT:** Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

**DISCHARGE:** The release, conveyance, channeling, runoff, or drainage, of stormwater, including snowmelt.

**DRAINAGE EASEMENT:** A right to use the land of another for a specific purpose, such as a right of way for the movement of water across or under the land surface or the storage of water.

**EROSION:** Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

**EROSION AND SEDIMENT CONTROL PLAN (E&S CONTROL PLAN):** A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An "E&S control plan" is required as part of a stormwater management plan. Both the stormwater management plan and E&S control plans are used in developing the state mandated stormwater pollution prevention plan (SWPPP). An E&S control plan may be required for certain projects not requiring a full stormwater management plan, as outlined in this chapter or determined necessary by the city engineer.

**EROSION CONTROL:** Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**EXPOSED SOIL AREAS:** All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil" until it meets the definition of "final stabilization".

**FINAL STABILIZATION:** All soil disturbing activities at the site have been completed, and a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a

density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use or as required by the "Minnesota Stormwater Manual".

**FLOODWAY:** The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the flood insurance study (as described in section 10-2-2 of this code).

**HYDRIC SOILS:** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

**HYDROPHYTIC VEGETATION:** Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**IMPERVIOUS AREA:** A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, storage areas; and concrete, asphalt, or gravel parking lots and roads.

**LAND DEVELOPMENT ACTIVITY:** The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.

**LAND DISTURBING ACTIVITY:** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this chapter, "land disturbance activity" does not mean:

- A. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the stormwater system.
- B. Additions or modifications to existing single-family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the stormwater system.

- C. Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the stormwater system.
- D. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
- E. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

**LANDOWNER:** Any person holding title to or having a divided or undivided interest in land.

**LOCAL DETENTION:** Detention intended to serve only the developing area in question and no areas outside of the development boundaries. As such it is under the control of one owner or group of owners. This is also known as on site detention.

**LOCAL DRAINAGE SYSTEM:** The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system and serving only the property within the development boundaries, under the control of one owner or group of owners. This is also known as the on site drainage system.

**MANAGEMENT PRACTICE:** A practice or combination of practices to control erosion and water quality degradation.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT:** Any permit or requirement enforced pursuant to the clean water act as amended for the purposes of regulating stormwater discharge.

**NATURAL WATER:** A river, stream, pond, channel or ditch.

**NONCOMPLIANCE FEE:** The administrative penalty, or fee, for reinspection of a property which may be assessed to a permittee, landowner, developer or their contractor(s) for noncompliance with the provisions and/or conditions of an approved stormwater plan and/or permit or the violation of any other provisions contained in this chapter.

**ON SITE DETENTION:** Also known as local detention system.

**ON SITE DRAINAGE SYSTEM:** Also known as local drainage system.

**OUTLET:** Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.



**OWNER OR OCCUPANT:** Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the stormwater system of the city, and who pays for and is legally responsible for the payment of stormwater rates or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

**PERMANENT COVER:** Means "final stabilization". Examples include grass, gravel, asphalt, and concrete. See also definition of Final Stabilization.

**PERMANENT DEVELOPMENT:** Any buildings, structures, landscaping and related features constructed as part of a development project approved for construction or constructed prior to the passage date hereof.

**PERMANENT FACILITIES:** Those features of a stormwater management plan which are part of any natural or constructed stormwater system that requires periodic maintenance to retain their operational capabilities. This includes, but is not limited to, storm sewers, infiltration areas, detention areas, channels, streets, etc.

**PERMIT:** Within the context of this rule a "permit" is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

**PERMITTEE:** Any person who applies for and receives approval of stormwater plan and/or permit from the city.

**PERSON:** Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.

**PROHIBITED DISCHARGE:** A nonstormwater discharge into the stormwater system or a natural water, including, but not limited to:

A. Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.

B. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to, chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).

C. Erosion and sediment originating from a property and deposited onto city streets, private properties or into the stormwater conveyance system, including those areas not specifically covered under an approved stormwater management plan or stormwater permit.



D. Failure to remove sediments transported or tracked onto city streets by vehicles or construction traffic by the end of each working day.

E. For the purposes of this chapter, prohibited discharges do not include the following, unless information is available to indicate otherwise:

- Air conditioning condensate
- Dechlorinated swimming pool discharges
- Discharges from potable water sources
- Diverted stream flows
- Flows from riparian habitats and wetlands
- Footing drains
- Foundation drains
- Individual residential car washing
- Irrigation water
- Landscape irrigation
- Lawn watering
- Rising groundwater
- Springs
- Street wash water
- Uncontaminated groundwater infiltration
- Uncontaminated pumped groundwater
- Water from crawl space pumps
- Water line flushing

**PUBLIC STORM SEWER:** A storm sewer located entirely within publicly owned land or easements.

**REGIONAL DETENTION:** Detention facilities provided to serve an area outside the development boundaries. A "regional detention" site generally receives runoff from multiple stormwater sources and serves an area of approximately one quarter section.

**REGIONAL FLOOD:** Also known as base flood or 100-year flood (as described in section [10-2-2](#) of this code).

**RETENTION FACILITY:** A natural or manmade structure that provides for the storage of all or a portion of stormwater runoff.

**RUNOFF:** The rainfall, snowmelt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

**SEDIMENT:** Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.



**SEDIMENT CONTROL:** The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**SIGNIFICANT REDEVELOPMENT:** Alterations of a property that changes the "footprint" of a site or building in such a way that results in the disturbance of over one acre of land. This term is not intended to include activities, which would not be expected to cause adverse stormwater quality impacts and offer no new opportunity for stormwater controls, such as exterior remodeling.

**SITE:** The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the stormwater plan or permit application.

**STABILIZE:** To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, placing concrete, gravel, or other measures.

**STABILIZED:** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized (see also definition of Final Stabilization).

**STATE:** The state of Minnesota.

**STORM SEWER:** A pipe or conduit for carrying stormwater, surface runoff, and drainage, excluding sewage and industrial wastes.

**STORMWATER:** Precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage. "Stormwater" does not include construction site dewatering.

**STORMWATER DETENTION:** Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.

**STORMWATER MANAGEMENT:** The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

**STORMWATER MANAGEMENT CRITERIA:** Specific guidance provided to the engineer/designer to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology and use of the design storm.

**STORMWATER MANAGEMENT PERMIT:** A permit issued by the city in accordance with this chapter after the approval and acceptance of the stormwater management plan. A permit must be acquired prior to initiating land development, land disturbing, or other

activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body or wetland outlet within the city's jurisdiction.

**STORMWATER MANAGEMENT PLAN:** A document containing the requirements identified by the city in article B of this chapter, that when implemented will provide solutions to stormwater management problems that may occur as a result of the proposed development or land disturbing activity. A stormwater management permit is not required as part of, but may be included in a stormwater management plan.

**STORMWATER MANAGEMENT SYSTEM:** Physical facilities that collect, store, convey, and treat stormwater runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A joint stormwater and erosion and sediment control plan that is written as a prerequisite to obtaining an NPDES stormwater permit for construction activity, that when implemented will decrease soil erosion on a parcel of land and off site nonpoint pollution. It involves both temporary and permanent controls. The SWPPP, which draws its information from a stormwater management plan and is typically condensed, must be incorporated into the construction grading plans for the project.

**STORMWATER RETENTION:** Storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).

**STRUCTURE:** Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

**SUBDIVISION:** Any tract of land divided into building lots for private, public, commercial, industrial, etc., development for the purpose of sale, rent, or lease, including planned unit development.

**SYSTEM CHARGE OR ASSESSMENT:** A charge for connecting an outlet to a regional stormwater management facility, typically a pond. The charge is normally assessed to recover the proportional cost of constructing a regional pond or stormwater treatment facility.

**TEMPORARY PROTECTION:** Short term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

**UNDEVELOPED LAND:** Land that in its current state has not been impacted by significant land disturbance activities, annexed into the city or subdivided into multiple ownership lots and is typically zoned agricultural.

**URBAN AREA:** Land associated with, or part of, a defined city or town. This chapter applies to urban or urbanizing, rather than rural areas.

**USER:** Any person who discharges, causes, or permits the discharge of stormwater into the



city's stormwater management system.

**VIOLATION:** The wilful or negligent act of noncompliance with the conditions attached to an approved stormwater plan and/or permit, or any other provisions contained in this chapter, subject to enforcement and penalty or noncompliance fees.

**WATERCOURSE:** The natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance.

**WATERS OF THE STATE:** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

**WATERSHED DISTRICT:** The Buffalo Red River watershed district.

**WATERSHED MASTER PLAN:** The plan that an engineer/designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It may be submitted to regulatory officials for their review for adoption.

**WET POND:** A retention facility which includes a permanent pool of water used for the purposes of providing for the treatment of stormwater runoff.

**WETLANDS:** Lands transitional between terrestrial and aquatic systems (excluding drainage ditch bottoms) where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:

- A. A predominance of hydric soils;
- B. Are inundated or saturated by the surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- C. Under normal circumstances support the prevalence of such vegetation. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)



**3-8A-3: SCOPE:**

A. Prohibited Discharges: It shall be considered an offense for any person to cause or allow a prohibited discharge into waters of the state, including the city stormwater system, or any natural water.

B. Land Disturbing Activity Requiring A Stormwater Management Plan: Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing subdivision or plat approval, a building permit or any land disturbance activity within the city must submit a stormwater management plan and/or a stormwater permit application to the city engineer unless a waiver is provided in accordance with this section.

No subdivision or plat approval shall be issued until a stormwater management plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this chapter. No building permit shall be issued until approval of a stormwater permit or a waiver of the permit requirements has been obtained in strict conformance with the provisions of this chapter. No land shall be disturbed until the permit is approved by the city and conforms to the standards set forth herein.

A stormwater management plan may also be required in some situations as determined by the city engineer (i.e., development within an existing subdivision with documented flooding problems associated with stormwater runoff, or development occurring on a large lot within a subdivision where a watershed master plan was previously developed).

Exemptions to the stormwater management plan and/or stormwater permit requirements of this section include any part of a subdivision that is included in a plat that has been approved by the city council and recorded with the register of deeds on or before the effective date of this article. A stormwater permit for land disturbing activities on such properties may still be required, as determined by the city engineer, and such activities are still subject to other compliance requirements in accordance with this article:

1. A stormwater management plan is not required for individual lots or properties located within a subdivision or plat for which a stormwater management plan has already been approved or in areas included within a watershed master plan area. This exemption is subject to the city engineer's consideration and approval. Stormwater permits, however, are required subject to the other exemptions noted in this section;
2. A parcel for which a building permit has been approved on or before the effective date of this chapter and an NPDES/SDS permit was not required;
3. The installation of any of the following: a fence, sign, trees or shrubs, telephone and electric poles and other kinds of posts or poles, except where such uses are prohibited by easement or stormwater conveyance requirements;
4. Any land disturbance activity not associated with building construction that will affect less than five thousand (5,000) square feet of undeveloped land. A stormwater permit

will not be required unless the proposed project will result in sediments entering the stormwater system;

5. Emergency work to protect life, limb, or property.

C. Land Disturbing Activity Involving The Construction Of A Single-Family Or Two-Family Dwelling: Construction of single-family or two-family dwellings must comply with in place BMPs and any existing permitted SWPPP for the subdivision, including NPDES/SDS permit requirements. A stormwater permit and compliance with the single-family residential construction erosion/sediment control standards is also required.

D. Installation And Repair Of Utility Service Lines:

1. At project sites that require permit coverage where a utility contractor is not the site owner or operator, each utility contractor must comply with the provisions of the stormwater pollution prevention plan (SWPPP) for the project their construction activities will impact. Each utility contractor must ensure that their activities do not render ineffective, the erosion prevention and sediment control best management practices (BMPs) for the site. Should a utility contractor damage or render ineffective any temporary BMPs for the site, the utility contractor must repair or replace such BMPs within twenty four (24) hours upon discovery of the damaged BMP. Should a utility contractor damage or render ineffective any permanent BMPs for the site, the utility contractor must repair or replace such BMPs within seven (7) days of completion of utility installation on the site. The utility contractor will be responsible for a BMP that includes mulch with seed or sod and must provide maintenance, including any watering necessary to ensure the establishment of the sod or mulch with seed. The establishment period for a BMP that includes sod or mulch with seed shall be thirty (30) days, after which, if the area does not have an acceptable level of establishment, the utility contractor must resod or reseed until satisfactory establishment is achieved.
2. At project sites where a utility contractor is the site owner or operator, and the utility company disturbs one or more acres of soil for the purpose of installation of utility service lines, including, but not limited to, residential electric, gas, telephone and cable lines, the utility company must apply for permit coverage from the city and state prior to commencement of construction.
3. Utility contractors working in a street right of way to repair existing or install new utilities and disturbing less than one acre shall obtain an excavation stormwater permit before commencing work. The utility contractor is required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to ensure that sediments resulting from their activity do not enter the stormwater system following construction. The street shall be swept within one working day of completion of utility installation on the site. All disturbed vegetation shall be replaced with mulch with seed or sod within seven (7) days of completion of utility installation on the site. The city will provide guidance



regarding acceptable temporary protection BMPs for inlets and methods to stabilize the exposed soil areas until they meet the definition of "final stabilization".

- E. Waivers: The city engineer may waive any requirement of this article upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement is not contrary to the objectives in this article. The city engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8A-4: MANAGEMENT OF SITE VEGETATION:**

Any landowner shall provide for the installation and maintenance of vegetation on their property in accordance with the following criteria, regardless as to whether or not a stormwater management plan or stormwater permit has been approved or is necessary under this chapter:

- A. Use Of Impervious Surfaces: No person shall apply items included in the definition of "prohibited discharge" on impervious surfaces or within stormwater drainage systems with impervious liners or conduits.
- B. Unimproved Land Areas: Except for driveways, sidewalks, patios, areas occupied by structures, landscaped areas, or areas that have been otherwise improved, all areas shall be covered by plants or vegetative growth.
- C. Use Of Pervious Surfaces: No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade watercourses, wetlands, or within wetland buffer areas. No person shall deposit items included in the definition of "prohibited discharge" except as noted above.

Failure to comply with this section shall constitute a violation and subject the landowner to the enforcement provisions, penalties and noncompliance fees outlined in article F of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE B. STORMWATER MANAGEMENT PLAN; APPLICATION AND REVIEW**

### **3-8B-1: APPLICATION AND CONTENT:**

A written stormwater management plan application shall be filed with the city engineer as required by this article. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this article and the "Minnesota Stormwater Manual" (manual). Prior to applying for approval of a stormwater management plan, it is recommended that the applicant have the stormwater management plan reviewed by any affected public agencies. While it is not necessary it is desirable in some cases to combine the stormwater management plan and stormwater permit submittals in a single application.

Two (2) sets of legible copies of the drawings and required information shall be submitted to the city engineer and shall be accompanied by a receipt from the city to document the payment of all required fees for processing and approval as set forth in section [3-8B-2](#) of this article. Plans shall be prepared to a scale appropriate to the site of the project and suitable for performing the review.

At a minimum, the stormwater management plan shall contain the information outlined in the manual. A written stormwater management report discussing the pre- and postdevelopment hydrologic and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns shall also be provided. The contents of this report shall be in accordance with the recommended format in the manual. For additional information refer to [article C of this chapter](#). (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-2: APPLICATION FEE:**

A processing and approval fee adopted by the city council shall accompany all applications for stormwater management plan approval. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-3: PROCESS:**

A stormwater management plan meeting the requirements of this article shall be submitted to the city engineer for review and to determine its compliance with the standards as outlined in [article C of this chapter](#). The city engineer shall approve, approve with conditions, or deny the stormwater management plan. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the city engineer may bring the proposed stormwater management plan before the city council for consideration and public comment. Prior to initiating construction as outlined in the stormwater



management plan, the applicant must also obtain a stormwater permit. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-4: DURATION:**

Approval of any plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the city engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the city engineer may grant one extension of not greater than one year. The city engineer shall acknowledge receipt of any request for an extension within fifteen (15) days. The city engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised following the same procedure for an original approval. Provided, the city engineer may waive all or part of the application fee if the revision is minor. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original plan was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-5: CONDITIONS OF APPROVAL:**

A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure proper buffering, require the acquisition or dedication of certain lands or easements, and require the conveyance to the city of Moorhead or other public entity of certain lands or interests therein for stormwater system facilities. The city engineer may specify special requirements or conditions for specific major or minor watersheds within the city and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform and comply with all the requirements and conditions of the plan prior to commencing or concurrent with any land disturbing activities. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE C. STORMWATER MANAGEMENT PLAN; APPROVAL STANDARDS**

### **3-8C-1: GENERAL:**

This article describes the approval standards used to evaluate a proposed stormwater management plan. The city engineer shall not approve a stormwater management plan which fails to meet these standards. Other applicable standards, such as state and federal standards, shall also apply. If the standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies include, but are not limited to, the Buffalo Red River watershed district (BRRWD), Clay County, the Minnesota department of natural resources (DNR), the Minnesota department of transportation (MnDOT), the Minnesota pollution control agency (MPCA), the state historic preservation office (SHPO), the U.S. army corps of engineers, the U.S. environmental protection agency (EPA), federal emergency management agency (FEMA), and others. The city may choose to obtain some of the required permits. The applicant will be notified which permits are to be obtained by the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-2: STORMWATER MANUAL:**

The "Minnesota Stormwater Manual" (manual) contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and instructions for the development of an erosion and sedimentation control plan. Upon request the city will provide requirements for easements and rights of way, standard forms to be used, and standard construction details approved by the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-3: MODELS/METHODOLOGIES/COMPUTATIONS:**

Other than those outlined in the manual, any hydrologic models and/or design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities, shall be approved in advance by the city engineer. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall be signed by a professional engineer registered in the

state of Minnesota. This requirement will be met as part of a properly completed stormwater management plan. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-4: STORMWATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES:**

Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:

- A. Pre- Versus Posthydrological Response Of Site: An applicant shall install or construct, on or for the proposed land disturbing activity or development activity, all stormwater management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the outlet, or the stormwater management system, into which the site discharges or that would cause the stormwater management system to be overloaded or accelerate channel erosion as a result of the proposed land disturbing activity or development activity. Under no circumstances shall the 2-, 10-, or 100-year developed peak flow exceed the 2-, 10-, or 100-year existing peak flow without prior written approval by the city engineer. For regional detention or stormwater management system, the city engineer shall recommend a proposed system charge or assessment to be approved by the city council based upon an approved watershed master plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties directly or indirectly impacted by the regional detention or stormwater management system.
- B. Natural Features Of Site: The applicant shall give consideration to reducing the need for stormwater management system facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.
- C. Stormwater Management Strategies: The following stormwater management practices shall be investigated when developing a stormwater management plan:
  - 1. Natural infiltration of precipitation and runoff on site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;

2. Flow attenuation by use of open vegetated swales and natural depressions;
3. Stormwater detention facilities; and
4. Stormwater retention facilities (on a case by case basis).
5. Other facilities requested by the city engineer.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified. Justification shall be provided by the applicant for the method selected.

D. Adequacy Of Outlets: The adequacy of any outlet used as a discharge point for proposed stormwater management system must be assessed and documented to the satisfaction of the city engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate postdevelopment runoff discharges and volumes without causing increased property damages or any increase in the established base flood elevation. If a floodplain or floodway has not been established by the federal emergency management agency (FEMA), the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a professional engineer registered in the state of Minnesota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the city engineer are approved and installed as part of the stormwater management plan. The assessment of outlet adequacy shall be included in the stormwater management plan.

E. Stormwater Detention/Retention Facilities: Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the manual. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-5: OPERATION, MAINTENANCE AND INSPECTION:**

All stormwater management systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically 8 feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All stormwater management systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The city engineer may inspect all public and private stormwater management systems at any time. Inspection records will be kept on file at the city engineer's office. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management system for inspection and maintenance purposes. The city engineer shall retain enforcement

powers for assuring adequate operation and maintenance activities through permit conditions, penalties, noncompliance orders and fees.

The city engineer or his/her designated representative shall inspect all stormwater management systems during construction, during the first year of operation and at least once every five (5) years thereafter. The city will keep all inspection records on file for a period of three (3) years beyond the NPDES permit period. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-6: EASEMENTS:**

Easements may be required as conditions to the approval of a stormwater management plan and/or permit. If a stormwater management plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners any necessary easements or other property interests concerning the flowing of such water. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-7: PLAN APPLICABILITY:**

A stormwater management plan approval issued under this chapter runs with the land and is a condition of plat or development approval. Any landowner or subsequent landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision or modification of the plan. Failure to comply with this plan shall constitute a violation and subject the permittee, developer, and/or landowner to the enforcement provisions, penalties and noncompliance fees. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-8: PLAN AMENDMENTS:**

Stormwater management plans may be amended only by a written request submitted to the city engineer. This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. Provided, the city engineer may waive all or part of the fees if the amendment is minor. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## ARTICLE D. STORMWATER PERMITS

### 3-8D-1: PERMITS REQUIRED:

It is unlawful to initiate any land development activity, land disturbing activity, or other activities which may result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the city, without having first complied with the terms of this chapter. Other activities include those outlined in section [3-8A-3](#) of this chapter.

- A. Permit Application: All persons subject to meeting the requirements and needing to obtain a stormwater permit shall complete and file with the city engineer an application in the form prescribed by the city engineer and accompanied by a fee established by the city council. The permit application may need to be accompanied by a stormwater management plan as prescribed under [article B of this chapter](#), if such a plan has not been previously approved. Permit applications may be denied if the applicant is not in compliance on another stormwater permit currently in effect.
- B. Stormwater Permit: A stormwater permit must be issued from the city engineer for any land disturbing projects greater than five thousand (5,000) square feet. Activities that disturb one acre of land or more must also obtain a Minnesota pollution control agency NPDES/SDS general stormwater permit for construction activity. Commencing earthwork on a project prior to plan or permit approval is considered a violation of this chapter.
- C. Permit Delays: The city engineer may withhold granting approval of a stormwater permit until all issues associated with the site are resolved to the satisfaction of the city engineer. Permits may be conditioned with delays such that work cannot begin until a specified date or until after the site is inspected.
- D. Permit Conditions: Permits issued are subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city council. Permits may contain, but are not limited to, any of the following conditions:
  - 1. A system charge or assessment for a stormwater outlet utilizing a regional stormwater management system in accordance with a cost determined by the city engineer and approved by the city council for said outlet;
  - 2. Limits on the maximum rate of allowable stormwater discharge;
  - 3. Requirements for water quality of stormwater discharge;

4. Requirements for the installation, operation and maintenance of stormwater facilities including detention/retention or other treatment facilities;
  5. Requirements for erosion and sediment control, including measures to be implemented and other procedures necessary to protect the stormwater system;
  6. Compliance schedule;
  7. Requirements for notification to and acceptance by the city engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality;
  8. Easements as outlined in section 3-8C-6 of this chapter; and
  9. Other conditions as deemed appropriate by the city engineer to ensure compliance with this chapter.
- E. Permit Duration: Permits must be issued for a time period specified by the city engineer. The applicant, if necessary, shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the city engineer during the term of the permit as set forth in subsection F of this section. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original permit was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.
- F. Permit Modification: The city engineer for just cause upon thirty (30) days' notice may modify stormwater permits. Just cause shall include, but not be limited to:
1. Promulgation of new federal, state or local regulatory requirements;
  2. Changes in the requirements of this chapter;
  3. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and
  4. Changes in the design or capability of receiving stormwater systems.
- The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- G. Permit Amendments: Stormwater permits may be amended (by applicant) only by a written request submitted by the permittee to the city engineer. This request shall contain the reason for the change and documentation related to any additional impacts which

may result from amendment approval. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines used for the stormwater permit applications under this article. Depending on the extent of the amendment, the city engineer may waive any additional fees for a permit amendment review.

H. Permit Transfer: A permit runs with the property it covers, until the permitted activities are completed, and is transferable to new landowners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. Land transfers must be reported to the city engineer within seven (7) days of the transfer. This section refers to city issued permits and does not release the applicant or owner from transfer requirements of an NPDES/SDS permit including, but not limited to, a notice of termination/permit modification.

I. Monitoring Facilities: The city engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater system component. Where at all possible, the monitoring facility shall be located on the applicant's property as opposed to being located on public rights of way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

J. Inspection: The city engineer may inspect the stormwater management system of any permittee to determine compliance with the requirements of this chapter. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
2. Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys and investigations.
3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
4. Inspect the stormwater pollution control measures.
5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be borne by the permittee.



- K. Inspections Of The Stormwater Pollution Prevention Plan's Measures: At a minimum, such inspections shall be done weekly by the permittee (general contractor, developer or the developer's designated representative), and within twenty four (24) hours after every storm or snowmelt event large enough to result in runoff from the site (approximately 0.5 inch or more in 24 hours). At a minimum, these inspections shall be done during active construction. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-2: CONSTRUCTION PLANS AND SPECIFICATIONS:**

- A. The plans and specifications prepared for the construction of the stormwater management system must be:
1. Consistent with the stormwater management plan approved by the city engineer, including any special provisions or conditions.
  2. In conformance with the requirements of the city of Moorhead's municipal specifications, "Minnesota Stormwater Manual" and any other necessary permits required and issued by other governmental agencies.
  3. Signed by a professional engineer registered in the state of Minnesota.
  4. Submitted to the city engineer for approval.
  5. Approved by the city engineer prior to commencing construction.
- B. The construction grading and erosion/sediment control plans, in a format acceptable to the city engineer, shall contain a drawing or drawings delineating the features incorporated into the stormwater pollution prevention plan (SWPPP) including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, including all BMPs. In addition the construction specifications shall contain technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMPs. The project SWPPP must be incorporated into the construction specification documents. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-3: CONSTRUCTION ACTIVITIES:**

Construction operations must at a minimum comply with any applicable federal or state permit and SWPPP in addition to the following best management practices:

- A. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or in any wetland.
- B. Waste And Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.
- C. Tracking Management: Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to minimize sediment from being tracked onto public or private roadways. Any material deposited by vehicles or other construction equipment onto a public or private road shall be removed (not by flushing) before the end of each working day.
- D. Water Quality Protection: The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.
- E. Site Erosion And Sedimentation Control: Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the "Minnesota Stormwater Manual" or other standards determined by the city engineer.
- F. Concrete Washout Area: All liquids and solid waste generated by concrete washout operations must be contained in a leakproof containment facility or impermeable liner. A compacted clay liner that does not allow washout liquids to enter groundwater is considered an impermeable liner. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-4: FINAL STORMWATER MANAGEMENT PLAN:**

Upon completion of all required construction activities, the permittee shall submit to the city engineer a final stormwater management plan to document any changes or material modifications to the original stormwater management plan concept. The final stormwater management plan shall contain record drawings showing the final configuration for all improvements as constructed. A professional engineer registered in the state of Minnesota shall certify the final stormwater management plan and record drawings. If no significant or material changes occurred between the approved plan and final construction, the record drawings need not be submitted to the city engineer. The permittee, however, is responsible to retain copies of said drawings and provide them to the city engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE E. SUSPENSIONS, REVOCATIONS AND STOP WORK ORDERS**

### **3-8E-1: STORMWATER VIOLATIONS AND REPORTING:**

A. Stormwater management plan, stormwater permit, and nonpermit related stormwater violations include, but are not limited to:

1. Commencing site grading or preparation work without first having obtained an NPDES/SDS stormwater permit for construction activity, or a city stormwater permit.
2. Noncompliance with the requirements or conditions attached to an approved SWPPP of an NPDES/SDS stormwater permit for construction activity, stormwater management plan, a city stormwater permit, or other standards established by the city engineer, under authority of the city.
3. The causing or allowing of a prohibited discharge in the city stormwater system, a natural watercourse, stormwater easement, stream or river.
4. Failure to remove sediments transported or tracked onto city streets by vehicles or construction traffic by the end of each working day.
5. Failure to install and maintain the erosion control measures (BMPs) on a construction site as outlined in the approved stormwater permit, SWPPP and its amendments, or other standards established by the city engineer, under authority of the city engineer.
6. Other violations or issues as noted or described throughout this chapter.



B. The city engineer shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection or a public complaint followed by a site inspection. At a minimum the complaint file shall contain the name and address of the owner, date, time and nature of the violation as well as other information as deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint the file shall also, if voluntarily provided, contain the name, address and phone number of the individual filing the complaint. In addition, the complaint file shall contain records documenting subsequent site inspections, compliance actions and a memo outlining the determination of the city engineer and any enforcement action taken and/or any noncompliance fees levied. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-2: EMERGENCY SUSPENSION:**

The city engineer may for cause order the suspension of a stormwater management plan, or a stormwater permit when the city engineer determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If such permits are suspended, all work in the area covered by the permit shall cease immediately. If any person is notified of such suspension and then fails to comply voluntarily with the suspension order, the city shall commence whatever steps are necessary to obtain compliance. The city engineer may reinstate the stormwater management plan, or stormwater permit upon proof of compliance with all plan or permit conditions. The city engineer may also order the immediate suspension of all work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) is obtained.

Whenever the city engineer orders the suspension of a plan or permit and/or orders all work to stop pursuant to the emergency provisions of this section, the city engineer shall serve notice on the landowner and/or permittee personally, or by registered or certified mail. The landowner and/or permittee has the right to an informal hearing before the city engineer upon request made in writing and filed with the city engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the city engineer may affirm, modify or rescind the order.

Any person dissatisfied with an order the city engineer issued pursuant to this section may request a hearing pursuant to section [3-8E-5](#) of this article by filing a written request for a hearing with the city engineer, within fifteen (15) days of receipt of the order. The hearing must be held within ten (10) days of receipt of the request. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-3: NONEMERGENCY REVOCATION OF A PERMIT:**



- A. A stormwater management plan or stormwater permit may be revoked following notice. An opportunity for a hearing in accordance with sections [3-8E-4](#) and [3-8E-5](#) of this article will be provided. The city engineer may revoke a plan or permit for cause, including, but not limited to:
1. Violation of any terms or conditions of the applicable plan or permit;
  2. False statements on any required reports and applications;
  3. Obtaining a plan or permit by misrepresentation or failure to disclose fully all relevant facts; or
  4. Any other violation of this chapter or related ordinance.
- B. The city engineer may revoke a stormwater management plan or stormwater permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided in accordance with sections [3-8E-4](#) and [3-8E-5](#) of this article. Under a revoked plan or permit no additional permit approvals (i.e., excavation, etc.) shall be issued for any properties within the area included within the plan or permit boundaries until approved by the city engineer. In addition the city may deny new permits (i.e., stormwater, excavation, etc.) to the permittee or landowner in violation for projects in other locations until current permits are brought into compliance. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-4: NOTIFICATION:**

Whenever the city engineer finds that any person has violated or is violating this article, stormwater management plan or stormwater permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the city engineer shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the city engineer due to the nature of the violation, a plan satisfactory to the engineer for correction thereof must be submitted to the city engineer. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the city engineer may order all work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the city engineer, that person, within fifteen (15) days of the order of the city engineer, may request a hearing as provided in section [3-8E-5](#) of this article. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-5: HEARING:**

If a person requests a hearing to contest the order of the city engineer, a notice of hearing must be served on the person appealing the order, specifying the time and place of a hearing to be held regarding the order of the city engineer, and directing the person appealing to show cause why the order of the city engineer should not be upheld. Unless the engineer has suspended the permit or ordered work to stop pursuant to section 3-8E-2 of this article, any order stopping all work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the city manager or his/her designee, who then shall either uphold, modify or rescind the order of the city engineer. An appeal of the decision may be taken to the district court according to law. Provided, that if the city manager or his/her designee upholds the order stopping work, such work suspension shall not be stayed as a result of the appeal to the district court. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-6: LEGAL ACTION:**

The discharge of deposited or eroded materials onto public rights of way or public storm sewer systems within the city of Moorhead shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the landowner's and/or permittee's expense based on the properties from which they originated. The landowner and/or permittee shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the city engineer's direction and any associated costs shall be the responsibility of the landowner or permittee and, if unpaid within ninety (90) days, may be recommended for assessment action by the city council against property of the violator.

If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the city's stormwater management system contrary to the provisions of this chapter, federal or state requirements or any order of the city engineer, the city attorney may commence action for appropriate legal and/or equitable relief including administrative or criminal penalties. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE F. ENFORCEMENT**

### **3-8F-1: ENFORCEMENT, PENALTY AND NONCOMPLIANCE FEES:**

Any person who is found to have violated an order of the city engineer made in accordance with this chapter, or who has failed to comply with any provision of this chapter and the



orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. All land use and stormwater permits may be suspended until the applicant has corrected the violation. A schedule for noncompliance and reinspection fees, which may be imposed for violation of this chapter, shall be approved by the city council. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-2: COSTS OF DAMAGE:**

Any person violating any of the provisions of this chapter or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the city's stormwater management system is liable to the city for any expense, loss, or damage caused by the violation or the discharge. The city may bill the person violating this chapter the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-3: CITY ATTORNEY FEES AND COSTS:**

In addition to the civil penalties provided herein, the city may recover reasonable attorney fees, court costs, court reporter fees, and other expenses of litigation by appropriate action against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-4: FALSIFYING INFORMATION:**

Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, permit or other document filed or required to be maintained pursuant to this chapter, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter shall be guilty of an offense. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-5: PENALTIES:**

Any person violating any provision of this chapter, in addition to other sanctions set forth above, may be charged with a criminal misdemeanor, and if convicted may be penalized in

accordance with the provisions of section 1-4-2 of this code, or alternatively, may be charged with an administrative violation pursuant to section 1-4-4 of this code. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE G. STORMWATER UTILITY AND STORMWATER MANAGEMENT FEE SYSTEM**

### **3-8G-1: FINDINGS:**

- A. The city maintains a system of underground and surface stormwater management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, and other components as well as natural waterways.
- B. The stormwater system in the city needs regular maintenance and improvements.
- C. Water quality of the Red River of the north can be degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.
- D. The public health, safety, and welfare can be adversely affected by periodic poor water quality within the Red River of the north and flooding that results from inadequate management of both the quality and quantity of stormwater.
- E. All real property in the city either uses or benefits from the maintenance of the stormwater system.
- F. The extent of use of the stormwater system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property.



- G. The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the impervious areas of their property on the stormwater management system.
- H. Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues, and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-2: ADMINISTRATION AND BUDGET:**

The city engineer, under the supervision and authority delegated by the city manager, shall advise the city manager and city council on matters related to the stormwater management program and to make recommendations to the city manager and city council concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the stormwater management program. The city engineer shall undertake the following activities to implement a stormwater management program:

- A. Prepare studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to stormwater within the city and to further the objectives of the stormwater management program, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the stormwater management program.
- B. Design, construct, operate, maintain, expand, or replace any element or elements of the public storm sewer system, including recommending the acquisition of easements by eminent domain, and recommending acquisition of title or easements other than by eminent domain, over any real or personal property that is part of, will become part of, or will protect the public storm sewer system, or is necessary or convenient for the implementation of the stormwater management program.
- C. Regulate, establish standards, review, inspect the design, construction or operation and maintenance of any stormwater management system that is under the control of private owners, whether or not such systems are required or intended for dedication to the public sewer system, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the public storm sewer system or the implementation of the stormwater management program.

- D. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the stormwater management system or in any way affect the implementation of the stormwater management program.
- E. Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing stormwater or water quality concerns.
- F. Analyze the cost of services and benefits provided by the stormwater utility and the structure of fees, service charges, credits, and other revenues on an annual basis and make recommendations to the city council regarding same.
- G. Undertake authorized expenditures as required to implement these activities, including all costs of capital improvements, operations and maintenance, debt services, and other costs as required.

The city council shall, as part of its annual budget process, adopt capital and operating budgets for the stormwater utility. The operating budget shall conform with state law, city policy and generally accepted accounting practices. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-3: DEFINITIONS:**

For the purposes of this article, the following words and phrases shall have the meanings indicated:

**BASE RATE:** The cost of service charge on a base unit. The monthly cost of service charge for a single-family residential property in the city equals the base rate.

**BASE UNIT:** The sample based average impervious surface area associated with a single-family residential property in the city.

**CHARGE OR COST OF SERVICE CHARGE OR STORMWATER MANAGEMENT FEE:** The monthly charge established under this chapter and charged to owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the city.

**CITY ENGINEER:** The city engineer for the city of Moorhead, Minnesota, or his or her designee.

**DEVELOPED PROPERTY:** Real property altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious area.

**IMPERVIOUS SURFACE:** A surface which receives rainfall or other precipitation and is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or other surface which impedes the natural infiltration of surface water.

**IMPERVIOUS SURFACE AREA:** The number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

**MULTIPLE-FAMILY DWELLING:** A multiple-family dwelling consisting of two (2) or more dwelling units including manufactured homes. Multiple-family dwellings service multiple-family tenants with a common water meter(s).

**MULTIPLE-FAMILY TENANT:** Any single-family dwelling unit within a multiple-family dwelling consisting of two (2) or more family dwelling units including manufactured homes in manufactured home parks.

**OTHER DEVELOPED PROPERTY:** Metered nonresidential, nonmultiple-family, nonmultiple-family tenant, industrial and nonindustrial business enterprises, schools, parks, government and public customers. Nonmetered commercial tenant units are considered to be an integral part of the metered customer and are not considered individually.

**PROPERTY OWNER:** The property owner of record as listed in Clay County records. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

**SINGLE-FAMILY DWELLING:** Any single-family dwelling or multiple-family tenant with an individual water meter.

**STORMWATER MANAGEMENT:** The planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, floodplains, flood control, grading erosion, tree conservation, and sediment control.

**STORMWATER SYSTEM:** The system or network of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basin, and other components as well as all natural waterways.

**STORMWATER UTILITY FUND OR FUND:** The fund created by this article to operate, maintain, and improve the city's stormwater management program.

**UNDEVELOPED PROPERTY:** Any property, including forest or agricultural land, which has

one-third ( $\frac{1}{3}$ ) or less of the base unit of impervious surface area.

WATER: Any stormwater, surface water, snowmelt or groundwater. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-4: ESTABLISHMENT OF STORMWATER UTILITY FUND:**

A. The stormwater management program is established and the stormwater system is provided to protect the waterways and land in the city by controlling flooding and to protect the natural environment. The costs of designing, developing, improving, operating, maintaining, and monitoring the stormwater system required in the city should, therefore, be allocated, to the extent practicable, to all property owners based on their impact on the stormwater system. In order to provide revenue to fund those costs and to fairly allocate those costs, a stormwater utility fund ("the fund") is established.

B. All revenues collected from the cost of service charge, grants, permit fees and other charges collected under this chapter shall be deposited to the fund. The city council may make additional appropriations to the fund. All disbursements from the fund shall be for the purposes of the fund as set forth in section 3-8G-5 of this article. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-5: PURPOSES OF THE FUND:**

The fund shall be used for the following purposes:

A. The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain stormwater control facilities.

B. All costs of administration and implementation of the stormwater management program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements.

C. Engineering and design, debt service and related financing expenses, construction costs for new facilities and enlargement or improvement of existing facilities.

D. Operation and maintenance of the stormwater system.

E. Monitoring, surveillance, and inspection of stormwater control devices.

F. Water quality monitoring and water quality programs.

G. Retrofitting developed areas for pollution control.

H. Inspection and enforcement activities.

I. Billing and administrative costs.

J. Other activities, which are reasonably required. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-6: STORMWATER COST OF SERVICE CHARGE:**

A monthly cost of service charge is imposed upon all real property in the city to fund stormwater management programs. This service charge shall be known as the stormwater cost of service charge or stormwater management fee. The charge is based on: a) the extent to which each property creates a need for the stormwater management program; b) the amount of impervious area on each property; and c) the cost of implementing a stormwater management program. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-7: CLASSIFICATION OF PROPERTY FOR PURPOSES OF DETERMINATION OF SERVICE CHARGE:**

A. Classifications: For purposes of determining the stormwater cost of service charge all properties in the city are classified into one of the following classes:

1. Single-family dwelling;
2. Multiple-family dwelling;
3. Other developed property; or
4. Undeveloped property.

B. Single-Family Dwelling Stormwater Cost Of Service Charge: The intensity of development of most parcels of real property in the city classified as single-family dwelling is similar and it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structure, and other impervious area) on each such parcel. Therefore, all single-family dwelling properties in the city shall be charged a flat stormwater cost of service charge, equal the base rate, regardless of the size of the parcel or the improvements.

C. Multiple-Family Dwelling Stormwater Cost Of Service Charge: The charge for multiple-family dwelling property in the city shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. That result will then be indexed to a fee schedule, recommended by the city engineer and adopted by the city council, that groups properties with similar ranges of impervious area together. The impervious surface area of multiple-family dwelling property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum stormwater cost of service charge for multiple-family dwelling property shall equal the base rate for single-family dwelling property.

D. Other Developed Property Stormwater Cost Of Service Charge: The charge for other developed property in the city shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. That result will then be indexed to a fee schedule, recommended by the city engineer and adopted by the city council, that groups properties with similar ranges of impervious area together. The impervious surface area of other developed property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum stormwater cost of service charge for other developed property shall equal the base rate for single-family dwelling property.

E. Undeveloped Property: Undeveloped property shall be exempt from the stormwater cost of service charge. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-8: BASE RATE:**

The city council shall, by the city's fee schedule, establish the monthly base rate and charge schedule for the stormwater cost of service charge. The base rate shall be calculated to ensure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-9: CHARGES FOR TAX EXEMPT PROPERTIES; EXEMPTIONS:**

- A. The council finds that all real property in the city contributes to runoff and either uses or benefits from the maintenance of the stormwater system. Therefore, except as otherwise provided in this section, all real property in the city, including property that is tax exempt from property tax, shall be charged the monthly stormwater cost of service charge.
- B. Other developed property which is owned by the city shall not be exempt from the charge. However, public rights of way, public trails, public streets, public alleys, public sidewalks, and public lands and/or easements in or upon which public storm or sanitary sewers are constructed and/or located shall be exempt from the charge. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-10: STORMWATER COST OF SERVICE CHARGE CREDITS:**

The city council may, by resolution, establish a system of credits recommended by the city engineer, which may reduce the stormwater cost of service charge for approved stormwater runoff reduction or treatment. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-11: REQUESTS FOR CORRECTION OF THE STORMWATER COST OF SERVICE CHARGE:**

- A. A property owner may request correction of the charge by submitting the request in writing to the city engineer. Grounds for correction of the charge include:
  - 1. Incorrect classification of the property for purposes of determining the charge;
  - 2. Errors in the square footage of the impervious surface area of the property;



3. Mathematical errors in calculating the charge to be applied to the property;
  4. Errors in the identification of the property owner of a property subject to the charge; and
  5. Mathematical errors in calculating credits pursuant to section 3-8G-10 of this article.
- B. The city engineer shall make a determination within thirty (30) days after receipt of the property owner's completed written request for correction of the charge. The city engineer's decision on a request for correction of the charge shall be final.
- C. A property owner must comply with all rules and procedures adopted by the city when submitting a request for correction of the charge and must provide all information necessary for the city engineer to make a determination on a request for correction of the charge. If a property owner alleges an error under subsection A2 of this section, the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-12: RATE STRUCTURE EFFECTIVE DATE:**

The rate structure set forth within this article shall be effective January 1, 2006. All other provisions shall be effective immediately. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE H. PRIVATE CONNECTION TO A PUBLIC STORM SEWER**

### **3-8H-1: STORM SEWER CONNECTIONS:**

- A. Permit, General: No unauthorized persons shall uncover, make any connections with or opening into, use, alter or disturb any public storm sewer or appurtenance thereof without first obtaining an excavation and stormwater permit from the city.

- B. Permit Application: The owner or an agent of the owner shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent. A permit and inspection fee shall be paid to the city at the time the application is filed.
- C. Connection Costs: All costs and expense incident to the installation and connection of the private storm sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the storm sewer.
- D. Construction: The size, slope, alignment, materials of construction of a storm sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes (section [9-1-1](#) of this code) or other applicable rules and regulations of the city and the current regulations of the state of Minnesota. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing and Materials (ASTM) as approved by authorized city personnel shall apply. All connections must be locatable in accordance with [title 8, chapter 4](#) of this code and Minnesota rules section 7560. Upon completion, the owner must provide record drawings of the installation.
- E. Inspection: The applicant for the excavation permit shall notify the city when the private storm sewer is ready for inspection and connection to the public storm sewer. The connection shall be made under the supervision of authorized city personnel.
- F. Erosion Control: All excavations must use best management practices (BMP) to prevent sediment from entering the storm sewer system.
- G. Safety And Restoration: All excavations for storm sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to their original condition or to a better condition in a manner satisfactory to the city ([title 8, chapter 4](#) of this code). An excavation permit shall be required for all excavations made in the areas of city streets, sidewalks, parkways and other paved areas.
- H. Maintenance Responsibility: It shall be the responsibility of the owner to maintain the private storm sewer from their property line up to and including the point where it

connects or discharges to the city storm sewer system, whether it is a direct connection to a storm sewer or discharges directly to a stormwater pond. This includes, but is not limited to, damaged pipe and appurtenances, bank erosion, sinkholes around the private storm sewer pipe, and the removal of any erodible materials that have entered the city storm sewer system from the private sewer connection. If the maintenance of the storm sewer requires excavation of the public right of way, the owner shall notify the engineering department and obtain an excavation permit prior to excavating. The contractor hired by the owner to repair the storm sewer shall follow the other requirements of subsection D of this section.

I. Payment For Costs As Special Assessment:

1. Although the cost of maintaining a private storm sewer is that of the owner, the city will allow the owner to pay for the cost of the maintenance of a private storm sewer as a special assessment under the following conditions:
  - a. The maintenance involves excavation of a public street.
  - b. The owner's maintenance cost is in excess of five hundred dollars (\$500.00).
  - c. The engineering department has reviewed and approved the invoice from the contractor hired by the owner.
  - d. The owner petitions the city to assess the cost within seven (7) days of the completion of the repair work.
2. If the above conditions are met, the city will initially pay the costs and spread as an assessment the principal amount of the owner's costs over ten (10) equal annual installments, with the interest rate on the assessment being set in the year the work is completed at the rate set for similar special assessments in that calendar year. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

**9-2-5: PLUMBING FACILITIES AND FIXTURE REQUIREMENTS:****A. General:**

1. Scope: The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.
2. Responsibility: The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. An owner or manager shall not permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter.

**B. Required Facilities:**

1. Dwelling Units: Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.
2. Rooming Houses: At least one water closet, lavatory and bathtub or shower shall be supplied for each four (4) rooming units.

**C. Toilet Rooms:**

1. Privacy: Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.
2. Location: Toilet rooms and bathrooms serving rooming units shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

**D. Plumbing Systems And Fixtures:**

1. General: All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
2. Fixture Clearances: Plumbing fixtures shall have adequate clearances for usage and cleaning.



3. Plumbing System Hazards: Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, back siphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard. A letter from a licensed professional is required verifying that corrections have been made to the listed plumbing deficiencies. Such certification of safe and adequate conditions must be sent to the code official.

#### E. Water System:

1. General: Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the plumbing code.
2. Contamination: The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood level rim of the fixture. Shampoo basin faucets, janitor sink faucets, and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric type vacuum breaker or an approved permanently attached hose connection vacuum breaker.
3. Supply: The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.
4. Water Heating Facilities: Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than one hundred twenty degrees Fahrenheit (120°F) (49°C ). A gas burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters. This valve shall be extended downward to the floor for safe water release in the event it is activated. When the water heating system is natural gas or propane a properly installed and maintained manual shutoff valve shall be present and accessible of each appliance connection.

#### F. Sanitary Drainage System:

1. General: All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.
2. Maintenance: Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

**G. Storm Drainage:**

1. General: Drainage of roofs and paved areas, yards and courts, and other open areas on the premises, including drainage from sump pumps, shall not be discharged in a manner that creates a public nuisance. Drainage must not flow into a sanitary sewer. (Ord. 2004-28, 10-18-2004)

## **Chapter 8 STORM WATER MANAGEMENT**

### **ARTICLE A. GENERAL PROVISIONS**

#### **3-8A-1: PURPOSE:**

- A. This chapter sets forth uniform requirements for stormwater management systems within the city of Moorhead. In the event of any conflict between the provisions of this chapter or other regulations adopted by the city of Moorhead, Clay County, state or federal authorities, the more restrictive standard prevails.
- B. The objectives of this chapter are as follows:
1. To promote, preserve, and enhance the natural resources within the city of Moorhead from adverse or undesirable impacts occasioned by development or other activities;
  2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater quantity and quality management practices;
  3. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on stormwater quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses;
  4. To establish detailed review standards and procedures for land development activities throughout the city of Moorhead, thereby achieving a balance between urban growth and development and the protection of water quality; and
  5. To provide for adequate stormwater system analysis and design as necessary to protect public and private property, water quality and existing natural resources.
- C. This chapter applies in the city of Moorhead, Minnesota, and to persons outside the city who are, by contract or agreement with the city, users of the city stormwater management system. Except as otherwise provided herein, the city engineer shall administer, implement, and enforce the provisions of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)



### 3-8A-2: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, and words, and their derivatives, shall have the meanings as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

**APPLICANT:** Any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, stormwater plan approval, stormwater permit or any other permit which allows land disturbing activities. "Applicant" also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

**BASE FLOOD OR REGIONAL FLOOD OR 100-YEAR FLOOD<sup>1</sup>:** The flood having a one percent (1%) chance or probability of being equaled or exceeded in any given year (i.e., 100-year flood).

**BEST MANAGEMENT PRACTICES (BMP):** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by federal, state, or designated areawide planning agencies or included in the "Minnesota Stormwater Manual".

**BMPs:** Measures designed to: a) prevent pollutants from leaving a specific area; b) reduce/eliminate the introduction of pollutants; c) protect sensitive areas; or d) prevent the interaction between precipitation and pollutants.

**BUFFER:** A protective vegetated zone located adjacent to a natural resource, such as a "water of the state" that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.

The buffer strip begins at the "ordinary high water mark" for wetlands and channel for rivers and streams. This start point corresponds to the Minnesota department of natural resources (DNR) definition of a "shoreline" in Minnesota rules 6115.0030.

**CITY:** The city of Moorhead or the city council of the city of Moorhead.

**CITY ENGINEER:** The city engineer of the city of Moorhead or authorized agent.

**COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This term is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.



**CONTROL MEASURE:** A practice or combination of practices to control erosion and attendant pollution, see also definition of Best Management Practices (BMP).

**COUNCIL:** The city council of the city of Moorhead.

**DETENTION FACILITY:** A natural or manmade structure, including wetlands used for the temporary storage of runoff and which may contain a permanent pool of water, or may be dry during times of no runoff.

**DEVELOPER:** A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

**DEVELOPMENT:** Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

**DISCHARGE:** The release, conveyance, channeling, runoff, or drainage, of stormwater, including snowmelt.

**DRAINAGE EASEMENT:** A right to use the land of another for a specific purpose, such as a right of way for the movement of water across or under the land surface or the storage of water.

**EROSION:** Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

**EROSION AND SEDIMENT CONTROL PLAN (E&S CONTROL PLAN):** A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An "E&S control plan" is required as part of a stormwater management plan. Both the stormwater management plan and E&S control plans are used in developing the state mandated stormwater pollution prevention plan (SWPPP). An E&S control plan may be required for certain projects not requiring a full stormwater management plan, as outlined in this chapter or determined necessary by the city engineer.

**EROSION CONTROL:** Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**EXPOSED SOIL AREAS:** All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil" until it meets the definition of "final stabilization".

**FINAL STABILIZATION:** All soil disturbing activities at the site have been completed, and a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a



density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use or as required by the "Minnesota Stormwater Manual".

**FLOODWAY:** The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the flood insurance study (as described in section [10-2-2](#) of this code).

**HYDRIC SOILS:** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

**HYDROPHYTIC VEGETATION:** Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**IMPERVIOUS AREA:** A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, storage areas; and concrete, asphalt, or gravel parking lots and roads.

**LAND DEVELOPMENT ACTIVITY:** The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.

**LAND DISTURBING ACTIVITY:** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this chapter, "land disturbance activity" does not mean:

- A. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the stormwater system.
- B. Additions or modifications to existing single-family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the stormwater system.



C. Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the stormwater system.

D. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.

E. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

LANDOWNER: Any person holding title to or having a divided or undivided interest in land.

LOCAL DETENTION: Detention intended to serve only the developing area in question and no areas outside of the development boundaries. As such it is under the control of one owner or group of owners. This is also known as on site detention.

LOCAL DRAINAGE SYSTEM: The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system and serving only the property within the development boundaries, under the control of one owner or group of owners. This is also known as the on site drainage system.

MANAGEMENT PRACTICE: A practice or combination of practices to control erosion and water quality degradation.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: Any permit or requirement enforced pursuant to the clean water act as amended for the purposes of regulating stormwater discharge.

NATURAL WATER: A river, stream, pond, channel or ditch.

NONCOMPLIANCE FEE: The administrative penalty, or fee, for reinspection of a property which may be assessed to a permittee, landowner, developer or their contractor(s) for noncompliance with the provisions and/or conditions of an approved stormwater plan and/or permit or the violation of any other provisions contained in this chapter.

ON SITE DETENTION: Also known as local detention system.

ON SITE DRAINAGE SYSTEM: Also known as local drainage system.

OUTLET: Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.



**OWNER OR OCCUPANT:** Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the stormwater system of the city, and who pays for and is legally responsible for the payment of stormwater rates or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

**PERMANENT COVER:** Means "final stabilization". Examples include grass, gravel, asphalt, and concrete. See also definition of Final Stabilization.

**PERMANENT DEVELOPMENT:** Any buildings, structures, landscaping and related features constructed as part of a development project approved for construction or constructed prior to the passage date hereof.

**PERMANENT FACILITIES:** Those features of a stormwater management plan which are part of any natural or constructed stormwater system that requires periodic maintenance to retain their operational capabilities. This includes, but is not limited to, storm sewers, infiltration areas, detention areas, channels, streets, etc.

**PERMIT:** Within the context of this rule a "permit" is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

**PERMITTEE:** Any person who applies for and receives approval of stormwater plan and/or permit from the city.

**PERSON:** Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.

**PROHIBITED DISCHARGE:** A nonstormwater discharge into the stormwater system or a natural water, including, but not limited to:

- A. Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.
- B. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to, chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).
- C. Erosion and sediment originating from a property and deposited onto city streets, private properties or into the stormwater conveyance system, including those areas not specifically covered under an approved stormwater management plan or stormwater permit.



D. Failure to remove sediments transported or tracked onto city streets by vehicles or construction traffic by the end of each working day.

E. For the purposes of this chapter, prohibited discharges do not include the following, unless information is available to indicate otherwise:

- Air conditioning condensate
- Dechlorinated swimming pool discharges
- Discharges from potable water sources
- Diverted stream flows
- Flows from riparian habitats and wetlands
- Footing drains
- Foundation drains
- Individual residential car washing
- Irrigation water
- Landscape irrigation
- Lawn watering
- Rising groundwater
- Springs
- Street wash water
- Uncontaminated groundwater infiltration
- Uncontaminated pumped groundwater
- Water from crawl space pumps
- Water line flushing

**PUBLIC STORM SEWER:** A storm sewer located entirely within publicly owned land or easements.

**REGIONAL DETENTION:** Detention facilities provided to serve an area outside the development boundaries. A "regional detention" site generally receives runoff from multiple stormwater sources and serves an area of approximately one quarter section.

**REGIONAL FLOOD:** Also known as base flood or 100-year flood (as described in section [10-2-2](#) of this code).

**RETENTION FACILITY:** A natural or manmade structure that provides for the storage of all or a portion of stormwater runoff.

**RUNOFF:** The rainfall, snowmelt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

**SEDIMENT:** Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.



**SEDIMENT CONTROL:** The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**SIGNIFICANT REDEVELOPMENT:** Alterations of a property that changes the "footprint" of a site or building in such a way that results in the disturbance of over one acre of land. This term is not intended to include activities, which would not be expected to cause adverse stormwater quality impacts and offer no new opportunity for stormwater controls, such as exterior remodeling.

**SITE:** The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the stormwater plan or permit application.

**STABILIZE:** To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, placing concrete, gravel, or other measures.

**STABILIZED:** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized (see also definition of Final Stabilization).

**STATE:** The state of Minnesota.

**STORM SEWER:** A pipe or conduit for carrying stormwater, surface runoff, and drainage, excluding sewage and industrial wastes.

**STORMWATER:** Precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage. "Stormwater" does not include construction site dewatering.

**STORMWATER DETENTION:** Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.

**STORMWATER MANAGEMENT:** The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

**STORMWATER MANAGEMENT CRITERIA:** Specific guidance provided to the engineer/designer to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology and use of the design storm.

**STORMWATER MANAGEMENT PERMIT:** A permit issued by the city in accordance with this chapter after the approval and acceptance of the stormwater management plan. A permit must be acquired prior to initiating land development, land disturbing, or other



activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body or wetland outlet within the city's jurisdiction.

**STORMWATER MANAGEMENT PLAN:** A document containing the requirements identified by the city in [article B of this chapter](#), that when implemented will provide solutions to stormwater management problems that may occur as a result of the proposed development or land disturbing activity. A stormwater management permit is not required as part of, but may be included in a stormwater management plan.

**STORMWATER MANAGEMENT SYSTEM:** Physical facilities that collect, store, convey, and treat stormwater runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A joint stormwater and erosion and sediment control plan that is written as a prerequisite to obtaining an NPDES stormwater permit for construction activity, that when implemented will decrease soil erosion on a parcel of land and off site nonpoint pollution. It involves both temporary and permanent controls. The SWPPP, which draws its information from a stormwater management plan and is typically condensed, must be incorporated into the construction grading plans for the project.

**STORMWATER RETENTION:** Storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).

**STRUCTURE:** Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

**SUBDIVISION:** Any tract of land divided into building lots for private, public, commercial, industrial, etc., development for the purpose of sale, rent, or lease, including planned unit development.

**SYSTEM CHARGE OR ASSESSMENT:** A charge for connecting an outlet to a regional stormwater management facility, typically a pond. The charge is normally assessed to recover the proportional cost of constructing a regional pond or stormwater treatment facility.

**TEMPORARY PROTECTION:** Short term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

**UNDEVELOPED LAND:** Land that in its current state has not been impacted by significant land disturbance activities, annexed into the city or subdivided into multiple ownership lots and is typically zoned agricultural.

**URBAN AREA:** Land associated with, or part of, a defined city or town. This chapter applies to urban or urbanizing, rather than rural areas.

**USER:** Any person who discharges, causes, or permits the discharge of stormwater into the

city's stormwater management system.

**VIOLATION:** The wilful or negligent act of noncompliance with the conditions attached to an approved stormwater plan and/or permit, or any other provisions contained in this chapter, subject to enforcement and penalty or noncompliance fees.

**WATERCOURSE:** The natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance.

**WATERS OF THE STATE:** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

**WATERSHED DISTRICT:** The Buffalo Red River watershed district.

**WATERSHED MASTER PLAN:** The plan that an engineer/designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It may be submitted to regulatory officials for their review for adoption.

**WET POND:** A retention facility which includes a permanent pool of water used for the purposes of providing for the treatment of stormwater runoff.

**WETLANDS:** Lands transitional between terrestrial and aquatic systems (excluding drainage ditch bottoms) where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:

- A. A predominance of hydric soils;
- B. Are inundated or saturated by the surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- C. Under normal circumstances support the prevalence of such vegetation. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)



**3-8A-3: SCOPE:**

A. Prohibited Discharges: It shall be considered an offense for any person to cause or allow a prohibited discharge into waters of the state, including the city stormwater system, or any natural water.

B. Land Disturbing Activity Requiring A Stormwater Management Plan: Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing subdivision or plat approval, a building permit or any land disturbance activity within the city must submit a stormwater management plan and/or a stormwater permit application to the city engineer unless a waiver is provided in accordance with this section.

No subdivision or plat approval shall be issued until a stormwater management plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this chapter. No building permit shall be issued until approval of a stormwater permit or a waiver of the permit requirements has been obtained in strict conformance with the provisions of this chapter. No land shall be disturbed until the permit is approved by the city and conforms to the standards set forth herein.

A stormwater management plan may also be required in some situations as determined by the city engineer (i.e., development within an existing subdivision with documented flooding problems associated with stormwater runoff, or development occurring on a large lot within a subdivision where a watershed master plan was previously developed).

Exemptions to the stormwater management plan and/or stormwater permit requirements of this section include any part of a subdivision that is included in a plat that has been approved by the city council and recorded with the register of deeds on or before the effective date of this article. A stormwater permit for land disturbing activities on such properties may still be required, as determined by the city engineer, and such activities are still subject to other compliance requirements in accordance with this article:

1. A stormwater management plan is not required for individual lots or properties located within a subdivision or plat for which a stormwater management plan has already been approved or in areas included within a watershed master plan area. This exemption is subject to the city engineer's consideration and approval. Stormwater permits, however, are required subject to the other exemptions noted in this section;
2. A parcel for which a building permit has been approved on or before the effective date of this chapter and an NPDES/SDS permit was not required;
3. The installation of any of the following: a fence, sign, trees or shrubs, telephone and electric poles and other kinds of posts or poles, except where such uses are prohibited by easement or stormwater conveyance requirements;
4. Any land disturbance activity not associated with building construction that will affect less than five thousand (5,000) square feet of undeveloped land. A stormwater permit



will not be required unless the proposed project will result in sediments entering the stormwater system;

5. Emergency work to protect life, limb, or property.

C. Land Disturbing Activity Involving The Construction Of A Single-Family Or Two-Family Dwelling: Construction of single-family or two-family dwellings must comply with in place BMPs and any existing permitted SWPPP for the subdivision, including NPDES/SDS permit requirements. A stormwater permit and compliance with the single-family residential construction erosion/sediment control standards is also required.

D. Installation And Repair Of Utility Service Lines:

1. At project sites that require permit coverage where a utility contractor is not the site owner or operator, each utility contractor must comply with the provisions of the stormwater pollution prevention plan (SWPPP) for the project their construction activities will impact. Each utility contractor must ensure that their activities do not render ineffective, the erosion prevention and sediment control best management practices (BMPs) for the site. Should a utility contractor damage or render ineffective any temporary BMPs for the site, the utility contractor must repair or replace such BMPs within twenty four (24) hours upon discovery of the damaged BMP. Should a utility contractor damage or render ineffective any permanent BMPs for the site, the utility contractor must repair or replace such BMPs within seven (7) days of completion of utility installation on the site. The utility contractor will be responsible for a BMP that includes mulch with seed or sod and must provide maintenance, including any watering necessary to ensure the establishment of the sod or mulch with seed. The establishment period for a BMP that includes sod or mulch with seed shall be thirty (30) days, after which, if the area does not have an acceptable level of establishment, the utility contractor must resod or reseed until satisfactory establishment is achieved.
2. At project sites where a utility contractor is the site owner or operator, and the utility company disturbs one or more acres of soil for the purpose of installation of utility service lines, including, but not limited to, residential electric, gas, telephone and cable lines, the utility company must apply for permit coverage from the city and state prior to commencement of construction.
3. Utility contractors working in a street right of way to repair existing or install new utilities and disturbing less than one acre shall obtain an excavation stormwater permit before commencing work. The utility contractor is required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to ensure that sediments resulting from their activity do not enter the stormwater system following construction. The street shall be swept within one working day of completion of utility installation on the site. All disturbed vegetation shall be replaced with mulch with seed or sod within seven (7) days of completion of utility installation on the site. The city will provide guidance



regarding acceptable temporary protection BMPs for inlets and methods to stabilize the exposed soil areas until they meet the definition of "final stabilization".

- E. Waivers: The city engineer may waive any requirement of this article upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement is not contrary to the objectives in this article. The city engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8A-4: MANAGEMENT OF SITE VEGETATION:**

Any landowner shall provide for the installation and maintenance of vegetation on their property in accordance with the following criteria, regardless as to whether or not a stormwater management plan or stormwater permit has been approved or is necessary under this chapter:

- A. Use Of Impervious Surfaces: No person shall apply items included in the definition of "prohibited discharge" on impervious surfaces or within stormwater drainage systems with impervious liners or conduits.
- B. Unimproved Land Areas: Except for driveways, sidewalks, patios, areas occupied by structures, landscaped areas, or areas that have been otherwise improved, all areas shall be covered by plants or vegetative growth.
- C. Use Of Pervious Surfaces: No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade watercourses, wetlands, or within wetland buffer areas. No person shall deposit items included in the definition of "prohibited discharge" except as noted above.

Failure to comply with this section shall constitute a violation and subject the landowner to the enforcement provisions, penalties and noncompliance fees outlined in [article F of this chapter](#). (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE B. STORMWATER MANAGEMENT PLAN; APPLICATION AND REVIEW**

### **3-8B-1: APPLICATION AND CONTENT:**

A written stormwater management plan application shall be filed with the city engineer as required by this article. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this article and the "Minnesota Stormwater Manual" (manual). Prior to applying for approval of a stormwater management plan, it is recommended that the applicant have the stormwater management plan reviewed by any affected public agencies. While it is not necessary it is desirable in some cases to combine the stormwater management plan and stormwater permit submittals in a single application.

Two (2) sets of legible copies of the drawings and required information shall be submitted to the city engineer and shall be accompanied by a receipt from the city to document the payment of all required fees for processing and approval as set forth in section [3-8B-2](#) of this article. Plans shall be prepared to a scale appropriate to the site of the project and suitable for performing the review.

At a minimum, the stormwater management plan shall contain the information outlined in the manual. A written stormwater management report discussing the pre- and postdevelopment hydrologic and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns shall also be provided. The contents of this report shall be in accordance with the recommended format in the manual. For additional information refer to [article C of this chapter](#). (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-2: APPLICATION FEE:**

A processing and approval fee adopted by the city council shall accompany all applications for stormwater management plan approval. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-3: PROCESS:**

A stormwater management plan meeting the requirements of this article shall be submitted to the city engineer for review and to determine its compliance with the standards as outlined in [article C of this chapter](#). The city engineer shall approve, approve with conditions, or deny the stormwater management plan. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the city engineer may bring the proposed stormwater management plan before the city council for consideration and public comment. Prior to initiating construction as outlined in the stormwater



management plan, the applicant must also obtain a stormwater permit. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-4: DURATION:**

Approval of any plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the city engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the city engineer may grant one extension of not greater than one year. The city engineer shall acknowledge receipt of any request for an extension within fifteen (15) days. The city engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised following the same procedure for an original approval. Provided, the city engineer may waive all or part of the application fee if the revision is minor. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original plan was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-5: CONDITIONS OF APPROVAL:**

A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure proper buffering, require the acquisition or dedication of certain lands or easements, and require the conveyance to the city of Moorhead or other public entity of certain lands or interests therein for stormwater system facilities. The city engineer may specify special requirements or conditions for specific major or minor watersheds within the city and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform and comply with all the requirements and conditions of the plan prior to commencing or concurrent with any land disturbing activities. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE C. STORMWATER MANAGEMENT PLAN; APPROVAL STANDARDS**

### **3-8C-1: GENERAL:**

This article describes the approval standards used to evaluate a proposed stormwater management plan. The city engineer shall not approve a stormwater management plan which fails to meet these standards. Other applicable standards, such as state and federal standards, shall also apply. If the standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies include, but are not limited to, the Buffalo Red River watershed district (BRRWD), Clay County, the Minnesota department of natural resources (DNR), the Minnesota department of transportation (MnDOT), the Minnesota pollution control agency (MPCA), the state historic preservation office (SHPO), the U.S. army corps of engineers, the U.S. environmental protection agency (EPA), federal emergency management agency (FEMA), and others. The city may choose to obtain some of the required permits. The applicant will be notified which permits are to be obtained by the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-2: STORMWATER MANUAL:**

The "Minnesota Stormwater Manual" (manual) contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and instructions for the development of an erosion and sedimentation control plan. Upon request the city will provide requirements for easements and rights of way, standard forms to be used, and standard construction details approved by the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-3: MODELS/METHODOLOGIES/COMPUTATIONS:**

Other than those outlined in the manual, any hydrologic models and/or design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities, shall be approved in advance by the city engineer. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall be signed by a professional engineer registered in the



state of Minnesota. This requirement will be met as part of a properly completed stormwater management plan. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-4: STORMWATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES:**

Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:

A. Pre- Versus Posthydrological Response Of Site: An applicant shall install or construct, on or for the proposed land disturbing activity or development activity, all stormwater management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the outlet, or the stormwater management system, into which the site discharges or that would cause the stormwater management system to be overloaded or accelerate channel erosion as a result of the proposed land disturbing activity or development activity. Under no circumstances shall the 2-, 10-, or 100-year developed peak flow exceed the 2-, 10-, or 100-year existing peak flow without prior written approval by the city engineer. For regional detention or stormwater management system, the city engineer shall recommend a proposed system charge or assessment to be approved by the city council based upon an approved watershed master plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties directly or indirectly impacted by the regional detention or stormwater management system.

B. Natural Features Of Site: The applicant shall give consideration to reducing the need for stormwater management system facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.

C. Stormwater Management Strategies: The following stormwater management practices shall be investigated when developing a stormwater management plan:

1. Natural infiltration of precipitation and runoff on site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;



2. Flow attenuation by use of open vegetated swales and natural depressions;
3. Stormwater detention facilities; and
4. Stormwater retention facilities (on a case by case basis).
5. Other facilities requested by the city engineer.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified. Justification shall be provided by the applicant for the method selected.

D. Adequacy Of Outlets: The adequacy of any outlet used as a discharge point for proposed stormwater management system must be assessed and documented to the satisfaction of the city engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate postdevelopment runoff discharges and volumes without causing increased property damages or any increase in the established base flood elevation. If a floodplain or floodway has not been established by the federal emergency management agency (FEMA), the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a professional engineer registered in the state of Minnesota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the city engineer are approved and installed as part of the stormwater management plan. The assessment of outlet adequacy shall be included in the stormwater management plan.

E. Stormwater Detention/Retention Facilities: Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the manual. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-5: OPERATION, MAINTENANCE AND INSPECTION:**

All stormwater management systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically 8 feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All stormwater management systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The city engineer may inspect all public and private stormwater management systems at any time. Inspection records will be kept on file at the city engineer's office. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management system for inspection and maintenance purposes. The city engineer shall retain enforcement

powers for assuring adequate operation and maintenance activities through permit conditions, penalties, noncompliance orders and fees.

The city engineer or his/her designated representative shall inspect all stormwater management systems during construction, during the first year of operation and at least once every five (5) years thereafter. The city will keep all inspection records on file for a period of three (3) years beyond the NPDES permit period. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-6: EASEMENTS:**

Easements may be required as conditions to the approval of a stormwater management plan and/or permit. If a stormwater management plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners any necessary easements or other property interests concerning the flowing of such water. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-7: PLAN APPLICABILITY:**

A stormwater management plan approval issued under this chapter runs with the land and is a condition of plat or development approval. Any landowner or subsequent landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision or modification of the plan. Failure to comply with this plan shall constitute a violation and subject the permittee, developer, and/or landowner to the enforcement provisions, penalties and noncompliance fees. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-8: PLAN AMENDMENTS:**

Stormwater management plans may be amended only by a written request submitted to the city engineer. This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. Provided, the city engineer may waive all or part of the fees if the amendment is minor. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)



## ARTICLE D. STORMWATER PERMITS

### 3-8D-1: PERMITS REQUIRED:

It is unlawful to initiate any land development activity, land disturbing activity, or other activities which may result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the city, without having first complied with the terms of this chapter. Other activities include those outlined in section 3-8A-3 of this chapter.

- A. Permit Application: All persons subject to meeting the requirements and needing to obtain a stormwater permit shall complete and file with the city engineer an application in the form prescribed by the city engineer and accompanied by a fee established by the city council. The permit application may need to be accompanied by a stormwater management plan as prescribed under [article B of this chapter](#), if such a plan has not been previously approved. Permit applications may be denied if the applicant is not in compliance on another stormwater permit currently in effect.
- B. Stormwater Permit: A stormwater permit must be issued from the city engineer for any land disturbing projects greater than five thousand (5,000) square feet. Activities that disturb one acre of land or more must also obtain a Minnesota pollution control agency NPDES/SDS general stormwater permit for construction activity. Commencing earthwork on a project prior to plan or permit approval is considered a violation of this chapter.
- C. Permit Delays: The city engineer may withhold granting approval of a stormwater permit until all issues associated with the site are resolved to the satisfaction of the city engineer. Permits may be conditioned with delays such that work cannot begin until a specified date or until after the site is inspected.
- D. Permit Conditions: Permits issued are subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city council. Permits may contain, but are not limited to, any of the following conditions:
  - 1. A system charge or assessment for a stormwater outlet utilizing a regional stormwater management system in accordance with a cost determined by the city engineer and approved by the city council for said outlet;
  - 2. Limits on the maximum rate of allowable stormwater discharge;
  - 3. Requirements for water quality of stormwater discharge;

4. Requirements for the installation, operation and maintenance of stormwater facilities including detention/retention or other treatment facilities;
  5. Requirements for erosion and sediment control, including measures to be implemented and other procedures necessary to protect the stormwater system;
  6. Compliance schedule;
  7. Requirements for notification to and acceptance by the city engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality;
  8. Easements as outlined in section [3-8C-6](#) of this chapter; and
  9. Other conditions as deemed appropriate by the city engineer to ensure compliance with this chapter.
- E. Permit Duration: Permits must be issued for a time period specified by the city engineer. The applicant, if necessary, shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the city engineer during the term of the permit as set forth in subsection F of this section. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original permit was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.
- F. Permit Modification: The city engineer for just cause upon thirty (30) days' notice may modify stormwater permits. Just cause shall include, but not be limited to:
1. Promulgation of new federal, state or local regulatory requirements;
  2. Changes in the requirements of this chapter;
  3. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and
  4. Changes in the design or capability of receiving stormwater systems.
- The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- G. Permit Amendments: Stormwater permits may be amended (by applicant) only by a written request submitted by the permittee to the city engineer. This request shall contain the reason for the change and documentation related to any additional impacts which



may result from amendment approval. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines used for the stormwater permit applications under this article. Depending on the extent of the amendment, the city engineer may waive any additional fees for a permit amendment review.

H. Permit Transfer: A permit runs with the property it covers, until the permitted activities are completed, and is transferable to new landowners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. Land transfers must be reported to the city engineer within seven (7) days of the transfer. This section refers to city issued permits and does not release the applicant or owner from transfer requirements of an NPDES/SDS permit including, but not limited to, a notice of termination/permit modification.

I. Monitoring Facilities: The city engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater system component. Where at all possible, the monitoring facility shall be located on the applicant's property as opposed to being located on public rights of way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

J. Inspection: The city engineer may inspect the stormwater management system of any permittee to determine compliance with the requirements of this chapter. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
2. Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys and investigations.
3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
4. Inspect the stormwater pollution control measures.
5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be borne by the permittee.

- K. Inspections Of The Stormwater Pollution Prevention Plan's Measures: At a minimum, such inspections shall be done weekly by the permittee (general contractor, developer or the developer's designated representative), and within twenty four (24) hours after every storm or snowmelt event large enough to result in runoff from the site (approximately 0.5 inch or more in 24 hours). At a minimum, these inspections shall be done during active construction. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-2: CONSTRUCTION PLANS AND SPECIFICATIONS:**

- A. The plans and specifications prepared for the construction of the stormwater management system must be:
1. Consistent with the stormwater management plan approved by the city engineer, including any special provisions or conditions.
  2. In conformance with the requirements of the city of Moorhead's municipal specifications, "Minnesota Stormwater Manual" and any other necessary permits required and issued by other governmental agencies.
  3. Signed by a professional engineer registered in the state of Minnesota.
  4. Submitted to the city engineer for approval.
  5. Approved by the city engineer prior to commencing construction.
- B. The construction grading and erosion/sediment control plans, in a format acceptable to the city engineer, shall contain a drawing or drawings delineating the features incorporated into the stormwater pollution prevention plan (SWPPP) including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, including all BMPs. In addition the construction specifications shall contain technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMPs. The project SWPPP must be incorporated into the construction specification documents. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-3: CONSTRUCTION ACTIVITIES:**

Construction operations must at a minimum comply with any applicable federal or state permit and SWPPP in addition to the following best management practices:



- A. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or in any wetland.
- B. Waste And Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.
- C. Tracking Management: Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to minimize sediment from being tracked onto public or private roadways. Any material deposited by vehicles or other construction equipment onto a public or private road shall be removed (not by flushing) before the end of each working day.
- D. Water Quality Protection: The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.
- E. Site Erosion And Sedimentation Control: Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the "Minnesota Stormwater Manual" or other standards determined by the city engineer.
- F. Concrete Washout Area: All liquids and solid waste generated by concrete washout operations must be contained in a leakproof containment facility or impermeable liner. A compacted clay liner that does not allow washout liquids to enter groundwater is considered an impermeable liner. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-4: FINAL STORMWATER MANAGEMENT PLAN:**



Upon completion of all required construction activities, the permittee shall submit to the city engineer a final stormwater management plan to document any changes or material modifications to the original stormwater management plan concept. The final stormwater management plan shall contain record drawings showing the final configuration for all improvements as constructed. A professional engineer registered in the state of Minnesota shall certify the final stormwater management plan and record drawings. If no significant or material changes occurred between the approved plan and final construction, the record drawings need not be submitted to the city engineer. The permittee, however, is responsible to retain copies of said drawings and provide them to the city engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE E. SUSPENSIONS, REVOCATIONS AND STOP WORK ORDERS**

### **3-8E-1: STORMWATER VIOLATIONS AND REPORTING:**

A. Stormwater management plan, stormwater permit, and nonpermit related stormwater violations include, but are not limited to:

1. Commencing site grading or preparation work without first having obtained an NPDES/SDS stormwater permit for construction activity, or a city stormwater permit.
2. Noncompliance with the requirements or conditions attached to an approved SWPPP of an NPDES/SDS stormwater permit for construction activity, stormwater management plan, a city stormwater permit, or other standards established by the city engineer, under authority of the city.
3. The causing or allowing of a prohibited discharge in the city stormwater system, a natural watercourse, stormwater easement, stream or river.
4. Failure to remove sediments transported or tracked onto city streets by vehicles or construction traffic by the end of each working day.
5. Failure to install and maintain the erosion control measures (BMPs) on a construction site as outlined in the approved stormwater permit, SWPPP and its amendments, or other standards established by the city engineer, under authority of the city engineer.
6. Other violations or issues as noted or described throughout this chapter.



- B. The city engineer shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection or a public complaint followed by a site inspection. At a minimum the complaint file shall contain the name and address of the owner, date, time and nature of the violation as well as other information as deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint the file shall also, if voluntarily provided, contain the name, address and phone number of the individual filing the complaint. In addition, the complaint file shall contain records documenting subsequent site inspections, compliance actions and a memo outlining the determination of the city engineer and any enforcement action taken and/or any noncompliance fees levied. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-2: EMERGENCY SUSPENSION:**

The city engineer may for cause order the suspension of a stormwater management plan, or a stormwater permit when the city engineer determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If such permits are suspended, all work in the area covered by the permit shall cease immediately. If any person is notified of such suspension and then fails to comply voluntarily with the suspension order, the city shall commence whatever steps are necessary to obtain compliance. The city engineer may reinstate the stormwater management plan, or stormwater permit upon proof of compliance with all plan or permit conditions. The city engineer may also order the immediate suspension of all work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) is obtained.

Whenever the city engineer orders the suspension of a plan or permit and/or orders all work to stop pursuant to the emergency provisions of this section, the city engineer shall serve notice on the landowner and/or permittee personally, or by registered or certified mail. The landowner and/or permittee has the right to an informal hearing before the city engineer upon request made in writing and filed with the city engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the city engineer may affirm, modify or rescind the order.

Any person dissatisfied with an order the city engineer issued pursuant to this section may request a hearing pursuant to section [3-8E-5](#) of this article by filing a written request for a hearing with the city engineer, within fifteen (15) days of receipt of the order. The hearing must be held within ten (10) days of receipt of the request. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-3: NONEMERGENCY REVOCATION OF A PERMIT:**

- A. A stormwater management plan or stormwater permit may be revoked following notice. An opportunity for a hearing in accordance with sections [3-8E-4](#) and [3-8E-5](#) of this article will be provided. The city engineer may revoke a plan or permit for cause, including, but not limited to:
1. Violation of any terms or conditions of the applicable plan or permit;
  2. False statements on any required reports and applications;
  3. Obtaining a plan or permit by misrepresentation or failure to disclose fully all relevant facts; or
  4. Any other violation of this chapter or related ordinance.
- B. The city engineer may revoke a stormwater management plan or stormwater permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided in accordance with sections [3-8E-4](#) and [3-8E-5](#) of this article. Under a revoked plan or permit no additional permit approvals (i.e., excavation, etc.) shall be issued for any properties within the area included within the plan or permit boundaries until approved by the city engineer. In addition the city may deny new permits (i.e., stormwater, excavation, etc.) to the permittee or landowner in violation for projects in other locations until current permits are brought into compliance. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-4: NOTIFICATION:**

Whenever the city engineer finds that any person has violated or is violating this article, stormwater management plan or stormwater permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the city engineer shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the city engineer due to the nature of the violation, a plan satisfactory to the engineer for correction thereof must be submitted to the city engineer. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the city engineer may order all work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the city engineer, that person, within fifteen (15) days of the order of the city engineer, may request a hearing as provided in section [3-8E-5](#) of this article. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-5: HEARING:**



If a person requests a hearing to contest the order of the city engineer, a notice of hearing must be served on the person appealing the order, specifying the time and place of a hearing to be held regarding the order of the city engineer, and directing the person appealing to show cause why the order of the city engineer should not be upheld. Unless the engineer has suspended the permit or ordered work to stop pursuant to section 3-8E-2 of this article, any order stopping all work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the city manager or his/her designee, who then shall either uphold, modify or rescind the order of the city engineer. An appeal of the decision may be taken to the district court according to law. Provided, that if the city manager or his/her designee upholds the order stopping work, such work suspension shall not be stayed as a result of the appeal to the district court. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-6: LEGAL ACTION:**

The discharge of deposited or eroded materials onto public rights of way or public storm sewer systems within the city of Moorhead shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the landowner's and/or permittee's expense based on the properties from which they originated. The landowner and/or permittee shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the city engineer's direction and any associated costs shall be the responsibility of the landowner or permittee and, if unpaid within ninety (90) days, may be recommended for assessment action by the city council against property of the violator.

If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the city's stormwater management system contrary to the provisions of this chapter, federal or state requirements or any order of the city engineer, the city attorney may commence action for appropriate legal and/or equitable relief including administrative or criminal penalties. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE F. ENFORCEMENT**

### **3-8F-1: ENFORCEMENT, PENALTY AND NONCOMPLIANCE FEES:**

Any person who is found to have violated an order of the city engineer made in accordance with this chapter, or who has failed to comply with any provision of this chapter and the

orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. All land use and stormwater permits may be suspended until the applicant has corrected the violation. A schedule for noncompliance and reinspection fees, which may be imposed for violation of this chapter, shall be approved by the city council. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-2: COSTS OF DAMAGE:**

Any person violating any of the provisions of this chapter or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the city's stormwater management system is liable to the city for any expense, loss, or damage caused by the violation or the discharge. The city may bill the person violating this chapter the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-3: CITY ATTORNEY FEES AND COSTS:**

In addition to the civil penalties provided herein, the city may recover reasonable attorney fees, court costs, court reporter fees, and other expenses of litigation by appropriate action against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-4: FALSIFYING INFORMATION:**

Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, permit or other document filed or required to be maintained pursuant to this chapter, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter shall be guilty of an offense. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-5: PENALTIES:**

Any person violating any provision of this chapter, in addition to other sanctions set forth above, may be charged with a criminal misdemeanor, and if convicted may be penalized in

accordance with the provisions of section 1-4-2 of this code, or alternatively, may be charged with an administrative violation pursuant to section 1-4-4 of this code. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE G. STORMWATER UTILITY AND STORMWATER MANAGEMENT FEE SYSTEM**

### **3-8G-1: FINDINGS:**

- A. The city maintains a system of underground and surface stormwater management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, and other components as well as natural waterways.
- B. The stormwater system in the city needs regular maintenance and improvements.
- C. Water quality of the Red River of the north can be degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.
- D. The public health, safety, and welfare can be adversely affected by periodic poor water quality within the Red River of the north and flooding that results from inadequate management of both the quality and quantity of stormwater.
- E. All real property in the city either uses or benefits from the maintenance of the stormwater system.
- F. The extent of use of the stormwater system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property.



- G. The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the impervious areas of their property on the stormwater management system.
- H. Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues, and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-2: ADMINISTRATION AND BUDGET:**

The city engineer, under the supervision and authority delegated by the city manager, shall advise the city manager and city council on matters related to the stormwater management program and to make recommendations to the city manager and city council concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the stormwater management program. The city engineer shall undertake the following activities to implement a stormwater management program:

- A. Prepare studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to stormwater within the city and to further the objectives of the stormwater management program, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the stormwater management program.
- B. Design, construct, operate, maintain, expand, or replace any element or elements of the public storm sewer system, including recommending the acquisition of easements by eminent domain, and recommending acquisition of title or easements other than by eminent domain, over any real or personal property that is part of, will become part of, or will protect the public storm sewer system, or is necessary or convenient for the implementation of the stormwater management program.
- C. Regulate, establish standards, review, inspect the design, construction or operation and maintenance of any stormwater management system that is under the control of private owners, whether or not such systems are required or intended for dedication to the public sewer system, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the public storm sewer system or the implementation of the stormwater management program.

- D. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the stormwater management system or in any way affect the implementation of the stormwater management program.
- E. Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing stormwater or water quality concerns.
- F. Analyze the cost of services and benefits provided by the stormwater utility and the structure of fees, service charges, credits, and other revenues on an annual basis and make recommendations to the city council regarding same.
- G. Undertake authorized expenditures as required to implement these activities, including all costs of capital improvements, operations and maintenance, debt services, and other costs as required.

The city council shall, as part of its annual budget process, adopt capital and operating budgets for the stormwater utility. The operating budget shall conform with state law, city policy and generally accepted accounting practices. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-3: DEFINITIONS:**

For the purposes of this article, the following words and phrases shall have the meanings indicated:

**BASE RATE:** The cost of service charge on a base unit. The monthly cost of service charge for a single-family residential property in the city equals the base rate.

**BASE UNIT:** The sample based average impervious surface area associated with a single-family residential property in the city.

**CHARGE OR COST OF SERVICE CHARGE OR STORMWATER MANAGEMENT FEE:** The monthly charge established under this chapter and charged to owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the city.

**CITY ENGINEER:** The city engineer for the city of Moorhead, Minnesota, or his or her designee.

**DEVELOPED PROPERTY:** Real property altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious area.

**IMPERVIOUS SURFACE:** A surface which receives rainfall or other precipitation and is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or other surface which impedes the natural infiltration of surface water.

**IMPERVIOUS SURFACE AREA:** The number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

**MULTIPLE-FAMILY DWELLING:** A multiple-family dwelling consisting of two (2) or more dwelling units including manufactured homes. Multiple-family dwellings service multiple-family tenants with a common water meter(s).

**MULTIPLE-FAMILY TENANT:** Any single-family dwelling unit within a multiple-family dwelling consisting of two (2) or more family dwelling units including manufactured homes in manufactured home parks.

**OTHER DEVELOPED PROPERTY:** Metered nonresidential, nonmultiple-family, nonmultiple-family tenant, industrial and nonindustrial business enterprises, schools, parks, government and public customers. Nonmetered commercial tenant units are considered to be an integral part of the metered customer and are not considered individually.

**PROPERTY OWNER:** The property owner of record as listed in Clay County records. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

**SINGLE-FAMILY DWELLING:** Any single-family dwelling or multiple-family tenant with an individual water meter.

**STORMWATER MANAGEMENT:** The planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, floodplains, flood control, grading erosion, tree conservation, and sediment control.

**STORMWATER SYSTEM:** The system or network of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basin, and other components as well as all natural waterways.

**STORMWATER UTILITY FUND OR FUND:** The fund created by this article to operate, maintain, and improve the city's stormwater management program.

**UNDEVELOPED PROPERTY:** Any property, including forest or agricultural land, which has



one-third ( $\frac{1}{3}$ ) or less of the base unit of impervious surface area.

WATER: Any stormwater, surface water, snowmelt or groundwater. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-4: ESTABLISHMENT OF STORMWATER UTILITY FUND:**

- A. The stormwater management program is established and the stormwater system is provided to protect the waterways and land in the city by controlling flooding and to protect the natural environment. The costs of designing, developing, improving, operating, maintaining, and monitoring the stormwater system required in the city should, therefore, be allocated, to the extent practicable, to all property owners based on their impact on the stormwater system. In order to provide revenue to fund those costs and to fairly allocate those costs, a stormwater utility fund ("the fund") is established.
- B. All revenues collected from the cost of service charge, grants, permit fees and other charges collected under this chapter shall be deposited to the fund. The city council may make additional appropriations to the fund. All disbursements from the fund shall be for the purposes of the fund as set forth in section 3-8G-5 of this article. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-5: PURPOSES OF THE FUND:**

The fund shall be used for the following purposes:

- A. The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain stormwater control facilities.
- B. All costs of administration and implementation of the stormwater management program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements.
- C. Engineering and design, debt service and related financing expenses, construction costs for new facilities and enlargement or improvement of existing facilities.

- D. Operation and maintenance of the stormwater system.
- E. Monitoring, surveillance, and inspection of stormwater control devices.
- F. Water quality monitoring and water quality programs.
- G. Retrofitting developed areas for pollution control.
- H. Inspection and enforcement activities.
- I. Billing and administrative costs.
- J. Other activities, which are reasonably required. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-6: STORMWATER COST OF SERVICE CHARGE:**

A monthly cost of service charge is imposed upon all real property in the city to fund stormwater management programs. This service charge shall be known as the stormwater cost of service charge or stormwater management fee. The charge is based on: a) the extent to which each property creates a need for the stormwater management program; b) the amount of impervious area on each property; and c) the cost of implementing a stormwater management program. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-7: CLASSIFICATION OF PROPERTY FOR PURPOSES OF DETERMINATION OF SERVICE CHARGE:**

- A. Classifications: For purposes of determining the stormwater cost of service charge all properties in the city are classified into one of the following classes:

1. Single-family dwelling;
  2. Multiple-family dwelling;
  3. Other developed property; or
  4. Undeveloped property.
- B. Single-Family Dwelling Stormwater Cost Of Service Charge: The intensity of development of most parcels of real property in the city classified as single-family dwelling is similar and it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structure, and other impervious area) on each such parcel. Therefore, all single-family dwelling properties in the city shall be charged a flat stormwater cost of service charge, equal the base rate, regardless of the size of the parcel or the improvements.
- C. Multiple-Family Dwelling Stormwater Cost Of Service Charge: The charge for multiple-family dwelling property in the city shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. That result will then be indexed to a fee schedule, recommended by the city engineer and adopted by the city council, that groups properties with similar ranges of impervious area together. The impervious surface area of multiple-family dwelling property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum stormwater cost of service charge for multiple-family dwelling property shall equal the base rate for single-family dwelling property.
- D. Other Developed Property Stormwater Cost Of Service Charge: The charge for other developed property in the city shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. That result will then be indexed to a fee schedule, recommended by the city engineer and adopted by the city council, that groups properties with similar ranges of impervious area together. The impervious surface area of other developed property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum stormwater cost of service charge for other developed property shall equal the base rate for single-family dwelling property.
- E. Undeveloped Property: Undeveloped property shall be exempt from the stormwater cost of service charge. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-8: BASE RATE:**



The city council shall, by the city's fee schedule, establish the monthly base rate and charge schedule for the stormwater cost of service charge. The base rate shall be calculated to ensure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-9: CHARGES FOR TAX EXEMPT PROPERTIES; EXEMPTIONS:**

- A. The council finds that all real property in the city contributes to runoff and either uses or benefits from the maintenance of the stormwater system. Therefore, except as otherwise provided in this section, all real property in the city, including property that is tax exempt from property tax, shall be charged the monthly stormwater cost of service charge.
- B. Other developed property which is owned by the city shall not be exempt from the charge. However, public rights of way, public trails, public streets, public alleys, public sidewalks, and public lands and/or easements in or upon which public storm or sanitary sewers are constructed and/or located shall be exempt from the charge. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-10: STORMWATER COST OF SERVICE CHARGE CREDITS:**

The city council may, by resolution, establish a system of credits recommended by the city engineer, which may reduce the stormwater cost of service charge for approved stormwater runoff reduction or treatment. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-11: REQUESTS FOR CORRECTION OF THE STORMWATER COST OF SERVICE CHARGE:**

- A. A property owner may request correction of the charge by submitting the request in writing to the city engineer. Grounds for correction of the charge include:
  - 1. Incorrect classification of the property for purposes of determining the charge;
  - 2. Errors in the square footage of the impervious surface area of the property;

3. Mathematical errors in calculating the charge to be applied to the property;
  4. Errors in the identification of the property owner of a property subject to the charge;  
and
  5. Mathematical errors in calculating credits pursuant to section 3-8G-10 of this article.
- B. The city engineer shall make a determination within thirty (30) days after receipt of the property owner's completed written request for correction of the charge. The city engineer's decision on a request for correction of the charge shall be final.
- C. A property owner must comply with all rules and procedures adopted by the city when submitting a request for correction of the charge and must provide all information necessary for the city engineer to make a determination on a request for correction of the charge. If a property owner alleges an error under subsection A2 of this section, the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-12: RATE STRUCTURE EFFECTIVE DATE:**

The rate structure set forth within this article shall be effective January 1, 2006. All other provisions shall be effective immediately. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE H. PRIVATE CONNECTION TO A PUBLIC STORM SEWER**

### **3-8H-1: STORM SEWER CONNECTIONS:**

- A. Permit, General: No unauthorized persons shall uncover, make any connections with or opening into, use, alter or disturb any public storm sewer or appurtenance thereof without first obtaining an excavation and stormwater permit from the city.

- B. Permit Application: The owner or an agent of the owner shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent. A permit and inspection fee shall be paid to the city at the time the application is filed.
- C. Connection Costs: All costs and expense incident to the installation and connection of the private storm sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the storm sewer.
- D. Construction: The size, slope, alignment, materials of construction of a storm sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes (section [9-1-1](#) of this code) or other applicable rules and regulations of the city and the current regulations of the state of Minnesota. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing and Materials (ASTM) as approved by authorized city personnel shall apply. All connections must be locatable in accordance with [title 8, chapter 4](#) of this code and Minnesota rules section 7560. Upon completion, the owner must provide record drawings of the installation.
- E. Inspection: The applicant for the excavation permit shall notify the city when the private storm sewer is ready for inspection and connection to the public storm sewer. The connection shall be made under the supervision of authorized city personnel.
- F. Erosion Control: All excavations must use best management practices (BMP) to prevent sediment from entering the storm sewer system.
- G. Safety And Restoration: All excavations for storm sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to their original condition or to a better condition in a manner satisfactory to the city ([title 8, chapter 4](#) of this code). An excavation permit shall be required for all excavations made in the areas of city streets, sidewalks, parkways and other paved areas.
- H. Maintenance Responsibility: It shall be the responsibility of the owner to maintain the private storm sewer from their property line up to and including the point where it



connects or discharges to the city storm sewer system, whether it is a direct connection to a storm sewer or discharges directly to a stormwater pond. This includes, but is not limited to, damaged pipe and appurtenances, bank erosion, sinkholes around the private storm sewer pipe, and the removal of any erodible materials that have entered the city storm sewer system from the private sewer connection. If the maintenance of the storm sewer requires excavation of the public right of way, the owner shall notify the engineering department and obtain an excavation permit prior to excavating. The contractor hired by the owner to repair the storm sewer shall follow the other requirements of subsection D of this section.

I. Payment For Costs As Special Assessment:

1. Although the cost of maintaining a private storm sewer is that of the owner, the city will allow the owner to pay for the cost of the maintenance of a private storm sewer as a special assessment under the following conditions:
  - a. The maintenance involves excavation of a public street.
  - b. The owner's maintenance cost is in excess of five hundred dollars (\$500.00).
  - c. The engineering department has reviewed and approved the invoice from the contractor hired by the owner.
  - d. The owner petitions the city to assess the cost within seven (7) days of the completion of the repair work.
2. If the above conditions are met, the city will initially pay the costs and spread as an assessment the principal amount of the owner's costs over ten (10) equal annual installments, with the interest rate on the assessment being set in the year the work is completed at the rate set for similar special assessments in that calendar year. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

**8-1-8: CONTRACTORS' OPERATIONS:**

- A. **Dumping And Littering:** No contractors shall allow any vehicle to operate out of any construction site, regardless of whether the same shall be operated by the contractor, their agents, employees or subcontractors, in such a manner as to dump, scatter or deposit any rubbish, stones, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, twigs, shrubs, construction waste, garbage or other offensive or nauseous material on any street, alley or public place. The city is hereby empowered to order any contractor to take such precautions as deemed necessary to prevent any such foreign materials from being deposited on the streets, alleys or public places and to remove all foreign material on the street, alley or public place. If and in the event any contractor shall fail to comply with the order of the city, all construction may be ordered stopped.
- B. **Clean Vehicles:** No contractor or other person shall permit a vehicle to enter upon a public street, alley, sidewalk or other public place without first having its tires and wheels cleaned so as not to litter or soil any street, alley, sidewalk or other public place; and having any material removed from the interior or exterior or vehicle body which might fall or be deposited upon any street, alley, sidewalk or public place by normal movement of vehicles in traveling over such places.
- C. **Keep Streets Litter Free:** All streets, alleys, sidewalks or public places adjacent to any building or construction site shall be maintained in a litter free condition at all times. This shall include such soiling or littering caused by erosion, landslides or general construction activities at any such site.
- D. **Liability Of Contractor:** Whenever a contractor is engaged in any construction or maintenance activity, it shall be the contractor's responsibility to see that the provisions of this section are not violated by the contractor, the contractor's agents, employees, subcontractors or haulers of materials and supplies. If more than one contractor or any governmental unit is involved in work which contributes to the littering of streets, alleys, sidewalks or other public places in the same site or area, they shall be separately and jointly responsible for compliance with the provisions of this section.
- E. **Cleaning Littered Street:** If a street, alley, sidewalk or public place should become soiled or littered through any of the aforementioned means, the person responsible shall cause such soiling or littering to be cleaned up forthwith. If and when the person responsible fails to comply with any order to clean up or to take such precautions as deemed necessary to prevent foreign materials from being deposited on any street, alley or public place, then all ingress and egress to the site or area involved may be stopped until compliance with the order is effected.



F. Haul Routes: Any contractor or subcontractor, before starting construction or excavation, shall contact the city in regard to haul routes where all excess material will be disposed of. All haul routes shall be approved by the city. In the event the contractor or subcontractor fails to clean any portion of said haul route, said cleaning will be done by the street department and all such work hours will be charged against the contractor or subcontractor.

G. Exceptions: The provisions of this section shall not apply to construction work within the barricaded area of work being done in the street right of way pursuant to a city excavation permit authorizing the same, or to certain emergency or other work being performed within a barricaded area pursuant to a city contract or by certain emergency forces, provided that excavated material stored temporarily within the barricaded area shall not be scattered or carried or allowed to accumulate outside of such area. (Ord. 397; amd. 1967 Code §25.14)



## **Chapter 8**

# **STORM WATER MANAGEMENT**

## **ARTICLE A. GENERAL PROVISIONS**

### **3-8A-1: PURPOSE:**

- A. This chapter sets forth uniform requirements for stormwater management systems within the city of Moorhead. In the event of any conflict between the provisions of this chapter or other regulations adopted by the city of Moorhead, Clay County, state or federal authorities, the more restrictive standard prevails.
- B. The objectives of this chapter are as follows:
1. To promote, preserve, and enhance the natural resources within the city of Moorhead from adverse or undesirable impacts occasioned by development or other activities;
  2. To protect and promote the health, safety, and welfare of the people and property through effective stormwater quantity and quality management practices;
  3. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on stormwater quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses;
  4. To establish detailed review standards and procedures for land development activities throughout the city of Moorhead, thereby achieving a balance between urban growth and development and the protection of water quality; and
  5. To provide for adequate stormwater system analysis and design as necessary to protect public and private property, water quality and existing natural resources.
- C. This chapter applies in the city of Moorhead, Minnesota, and to persons outside the city who are, by contract or agreement with the city, users of the city stormwater management system. Except as otherwise provided herein, the city engineer shall administer, implement, and enforce the provisions of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### 3-8A-2: DEFINITIONS:

For the purpose of this chapter, the following terms, phrases, and words, and their derivatives, shall have the meanings as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

**APPLICANT:** Any person or group that applies for a building permit, subdivision approval, zoning change, approach, excavation or special use permit, stormwater plan approval, stormwater permit or any other permit which allows land disturbing activities. "Applicant" also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.

**BASE FLOOD OR REGIONAL FLOOD OR 100-YEAR FLOOD<sup>1</sup>:** The flood having a one percent (1%) chance or probability of being equaled or exceeded in any given year (i.e., 100-year flood).

**BEST MANAGEMENT PRACTICES (BMP):** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by federal, state, or designated areawide planning agencies or included in the "Minnesota Stormwater Manual".

**BMPs:** Measures designed to: a) prevent pollutants from leaving a specific area; b) reduce/eliminate the introduction of pollutants; c) protect sensitive areas; or d) prevent the interaction between precipitation and pollutants.

**BUFFER:** A protective vegetated zone located adjacent to a natural resource, such as a "water of the state" that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat.

The buffer strip begins at the "ordinary high water mark" for wetlands and channel for rivers and streams. This start point corresponds to the Minnesota department of natural resources (DNR) definition of a "shoreline" in Minnesota rules 6115.0030.

**CITY:** The city of Moorhead or the city council of the city of Moorhead.

**CITY ENGINEER:** The city engineer of the city of Moorhead or authorized agent.

**COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one proposed plan. This term is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land disturbing activities may occur.

**CONTROL MEASURE:** A practice or combination of practices to control erosion and attendant pollution, see also definition of Best Management Practices (BMP).

**COUNCIL:** The city council of the city of Moorhead.

**DETENTION FACILITY:** A natural or manmade structure, including wetlands used for the temporary storage of runoff and which may contain a permanent pool of water, or may be dry during times of no runoff.

**DEVELOPER:** A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.

**DEVELOPMENT:** Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.

**DISCHARGE:** The release, conveyance, channeling, runoff, or drainage, of stormwater, including snowmelt.

**DRAINAGE EASEMENT:** A right to use the land of another for a specific purpose, such as a right of way for the movement of water across or under the land surface or the storage of water.

**EROSION:** Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.

**EROSION AND SEDIMENT CONTROL PLAN (E&S CONTROL PLAN):** A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An "E&S control plan" is required as part of a stormwater management plan. Both the stormwater management plan and E&S control plans are used in developing the state mandated stormwater pollution prevention plan (SWPPP). An E&S control plan may be required for certain projects not requiring a full stormwater management plan, as outlined in this chapter or determined necessary by the city engineer.

**EROSION CONTROL:** Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

**EXPOSED SOIL AREAS:** All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil" until it meets the definition of "final stabilization".

**FINAL STABILIZATION:** All soil disturbing activities at the site have been completed, and a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a



density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use or as required by the "Minnesota Stormwater Manual".

**FLOODWAY:** The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the flood insurance study (as described in section [10-2-2](#) of this code).

**HYDRIC SOILS:** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

**HYDROPHYTIC VEGETATION:** Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**IMPERVIOUS AREA:** A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, storage areas; and concrete, asphalt, or gravel parking lots and roads.

**LAND DEVELOPMENT ACTIVITY:** The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.

**LAND DISTURBING ACTIVITY:** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this chapter, "land disturbance activity" does not mean:

- A. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the stormwater system.
- B. Additions or modifications to existing single-family structures that result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the stormwater system.

- C. Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and will not result in sediments entering the stormwater system.
- D. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
- E. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the city's requirements as soon as possible.

**LANDOWNER:** Any person holding title to or having a divided or undivided interest in land.

**LOCAL DETENTION:** Detention intended to serve only the developing area in question and no areas outside of the development boundaries. As such it is under the control of one owner or group of owners. This is also known as on site detention.

**LOCAL DRAINAGE SYSTEM:** The storm drainage system which transports the minor and major stormwater runoff to the major stormwater system and serving only the property within the development boundaries, under the control of one owner or group of owners. This is also known as the on site drainage system.

**MANAGEMENT PRACTICE:** A practice or combination of practices to control erosion and water quality degradation.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT:** Any permit or requirement enforced pursuant to the clean water act as amended for the purposes of regulating stormwater discharge.

**NATURAL WATER:** A river, stream, pond, channel or ditch.

**NONCOMPLIANCE FEE:** The administrative penalty, or fee, for reinspection of a property which may be assessed to a permittee, landowner, developer or their contractor(s) for noncompliance with the provisions and/or conditions of an approved stormwater plan and/or permit or the violation of any other provisions contained in this chapter.

**ON SITE DETENTION:** Also known as local detention system.

**ON SITE DRAINAGE SYSTEM:** Also known as local drainage system.

**OUTLET:** Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

**OWNER OR OCCUPANT:** Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the stormwater system of the city, and who pays for and is legally responsible for the payment of stormwater rates or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

**PERMANENT COVER:** Means "final stabilization". Examples include grass, gravel, asphalt, and concrete. See also definition of Final Stabilization.

**PERMANENT DEVELOPMENT:** Any buildings, structures, landscaping and related features constructed as part of a development project approved for construction or constructed prior to the passage date hereof.

**PERMANENT FACILITIES:** Those features of a stormwater management plan which are part of any natural or constructed stormwater system that requires periodic maintenance to retain their operational capabilities. This includes, but is not limited to, storm sewers, infiltration areas, detention areas, channels, streets, etc.

**PERMIT:** Within the context of this rule a "permit" is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

**PERMITTEE:** Any person who applies for and receives approval of stormwater plan and/or permit from the city.

**PERSON:** Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.

**PROHIBITED DISCHARGE:** A nonstormwater discharge into the stormwater system or a natural water, including, but not limited to:

- A. Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.
- B. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to, chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).
- C. Erosion and sediment originating from a property and deposited onto city streets, private properties or into the stormwater conveyance system, including those areas not specifically covered under an approved stormwater management plan or stormwater permit.



D. Failure to remove sediments transported or tracked onto city streets by vehicles or construction traffic by the end of each working day.

E. For the purposes of this chapter, prohibited discharges do not include the following, unless information is available to indicate otherwise:

- Air conditioning condensate
- Dechlorinated swimming pool discharges
- Discharges from potable water sources
- Diverted stream flows
- Flows from riparian habitats and wetlands
- Footing drains
- Foundation drains
- Individual residential car washing
- Irrigation water
- Landscape irrigation
- Lawn watering
- Rising groundwater
- Springs
- Street wash water
- Uncontaminated groundwater infiltration
- Uncontaminated pumped groundwater
- Water from crawl space pumps
- Water line flushing

**PUBLIC STORM SEWER:** A storm sewer located entirely within publicly owned land or easements.

**REGIONAL DETENTION:** Detention facilities provided to serve an area outside the development boundaries. A "regional detention" site generally receives runoff from multiple stormwater sources and serves an area of approximately one quarter section.

**REGIONAL FLOOD:** Also known as base flood or 100-year flood (as described in section [10-2-2](#) of this code).

**RETENTION FACILITY:** A natural or manmade structure that provides for the storage of all or a portion of stormwater runoff.

**RUNOFF:** The rainfall, snowmelt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

**SEDIMENT:** Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

**SEDIMENT CONTROL:** The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**SIGNIFICANT REDEVELOPMENT:** Alterations of a property that changes the "footprint" of a site or building in such a way that results in the disturbance of over one acre of land. This term is not intended to include activities, which would not be expected to cause adverse stormwater quality impacts and offer no new opportunity for stormwater controls, such as exterior remodeling.

**SITE:** The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the stormwater plan or permit application.

**STABILIZE:** To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, placing concrete, gravel, or other measures.

**STABILIZED:** The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized (see also definition of Final Stabilization).

**STATE:** The state of Minnesota.

**STORM SEWER:** A pipe or conduit for carrying stormwater, surface runoff, and drainage, excluding sewage and industrial wastes.

**STORMWATER:** Precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage. "Stormwater" does not include construction site dewatering.

**STORMWATER DETENTION:** Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.

**STORMWATER MANAGEMENT:** The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current conditions.

**STORMWATER MANAGEMENT CRITERIA:** Specific guidance provided to the engineer/designer to carry out drainage and stormwater management policies. An example might be the specification of local design hydrology and use of the design storm.

**STORMWATER MANAGEMENT PERMIT:** A permit issued by the city in accordance with this chapter after the approval and acceptance of the stormwater management plan. A permit must be acquired prior to initiating land development, land disturbing, or other

activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body or wetland outlet within the city's jurisdiction.

**STORMWATER MANAGEMENT PLAN:** A document containing the requirements identified by the city in [article B of this chapter](#), that when implemented will provide solutions to stormwater management problems that may occur as a result of the proposed development or land disturbing activity. A stormwater management permit is not required as part of, but may be included in a stormwater management plan.

**STORMWATER MANAGEMENT SYSTEM:** Physical facilities that collect, store, convey, and treat stormwater runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A joint stormwater and erosion and sediment control plan that is written as a prerequisite to obtaining an NPDES stormwater permit for construction activity, that when implemented will decrease soil erosion on a parcel of land and off site nonpoint pollution. It involves both temporary and permanent controls. The SWPPP, which draws its information from a stormwater management plan and is typically condensed, must be incorporated into the construction grading plans for the project.

**STORMWATER RETENTION:** Storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).

**STRUCTURE:** Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

**SUBDIVISION:** Any tract of land divided into building lots for private, public, commercial, industrial, etc., development for the purpose of sale, rent, or lease, including planned unit development.

**SYSTEM CHARGE OR ASSESSMENT:** A charge for connecting an outlet to a regional stormwater management facility, typically a pond. The charge is normally assessed to recover the proportional cost of constructing a regional pond or stormwater treatment facility.

**TEMPORARY PROTECTION:** Short term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.

**UNDEVELOPED LAND:** Land that in its current state has not been impacted by significant land disturbance activities, annexed into the city or subdivided into multiple ownership lots and is typically zoned agricultural.

**URBAN AREA:** Land associated with, or part of, a defined city or town. This chapter applies to urban or urbanizing, rather than rural areas.

**USER:** Any person who discharges, causes, or permits the discharge of stormwater into the

city's stormwater management system.

**VIOLATION:** The wilful or negligent act of noncompliance with the conditions attached to an approved stormwater plan and/or permit, or any other provisions contained in this chapter, subject to enforcement and penalty or noncompliance fees.

**WATERCOURSE:** The natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance.

**WATERS OF THE STATE:** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

**WATERSHED DISTRICT:** The Buffalo Red River watershed district.

**WATERSHED MASTER PLAN:** The plan that an engineer/designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It may be submitted to regulatory officials for their review for adoption.

**WET POND:** A retention facility which includes a permanent pool of water used for the purposes of providing for the treatment of stormwater runoff.

**WETLANDS:** Lands transitional between terrestrial and aquatic systems (excluding drainage ditch bottoms) where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:

- A. A predominance of hydric soils;
- B. Are inundated or saturated by the surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- C. Under normal circumstances support the prevalence of such vegetation. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)



### 3-8A-3: SCOPE:

- A. Prohibited Discharges: It shall be considered an offense for any person to cause or allow a prohibited discharge into waters of the state, including the city stormwater system, or any natural water.
- B. Land Disturbing Activity Requiring A Stormwater Management Plan: Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing subdivision or plat approval, a building permit or any land disturbance activity within the city must submit a stormwater management plan and/or a stormwater permit application to the city engineer unless a waiver is provided in accordance with this section.

No subdivision or plat approval shall be issued until a stormwater management plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this chapter. No building permit shall be issued until approval of a stormwater permit or a waiver of the permit requirements has been obtained in strict conformance with the provisions of this chapter. No land shall be disturbed until the permit is approved by the city and conforms to the standards set forth herein.

A stormwater management plan may also be required in some situations as determined by the city engineer (i.e., development within an existing subdivision with documented flooding problems associated with stormwater runoff, or development occurring on a large lot within a subdivision where a watershed master plan was previously developed).

Exemptions to the stormwater management plan and/or stormwater permit requirements of this section include any part of a subdivision that is included in a plat that has been approved by the city council and recorded with the register of deeds on or before the effective date of this article. A stormwater permit for land disturbing activities on such properties may still be required, as determined by the city engineer, and such activities are still subject to other compliance requirements in accordance with this article:

1. A stormwater management plan is not required for individual lots or properties located within a subdivision or plat for which a stormwater management plan has already been approved or in areas included within a watershed master plan area. This exemption is subject to the city engineer's consideration and approval. Stormwater permits, however, are required subject to the other exemptions noted in this section;
2. A parcel for which a building permit has been approved on or before the effective date of this chapter and an NPDES/SDS permit was not required;
3. The installation of any of the following: a fence, sign, trees or shrubs, telephone and electric poles and other kinds of posts or poles, except where such uses are prohibited by easement or stormwater conveyance requirements;
4. Any land disturbance activity not associated with building construction that will affect less than five thousand (5,000) square feet of undeveloped land. A stormwater permit

will not be required unless the proposed project will result in sediments entering the stormwater system;

5. Emergency work to protect life, limb, or property.

- C. Land Disturbing Activity Involving The Construction Of A Single-Family Or Two-Family Dwelling: Construction of single-family or two-family dwellings must comply with in place BMPs and any existing permitted SWPPP for the subdivision, including NPDES/SDS permit requirements. A stormwater permit and compliance with the single-family residential construction erosion/sediment control standards is also required.

D. Installation And Repair Of Utility Service Lines:

1. At project sites that require permit coverage where a utility contractor is not the site owner or operator, each utility contractor must comply with the provisions of the stormwater pollution prevention plan (SWPPP) for the project their construction activities will impact. Each utility contractor must ensure that their activities do not render ineffective, the erosion prevention and sediment control best management practices (BMPs) for the site. Should a utility contractor damage or render ineffective any temporary BMPs for the site, the utility contractor must repair or replace such BMPs within twenty four (24) hours upon discovery of the damaged BMP. Should a utility contractor damage or render ineffective any permanent BMPs for the site, the utility contractor must repair or replace such BMPs within seven (7) days of completion of utility installation on the site. The utility contractor will be responsible for a BMP that includes mulch with seed or sod and must provide maintenance, including any watering necessary to ensure the establishment of the sod or mulch with seed. The establishment period for a BMP that includes sod or mulch with seed shall be thirty (30) days, after which, if the area does not have an acceptable level of establishment, the utility contractor must resod or reseed until satisfactory establishment is achieved.
2. At project sites where a utility contractor is the site owner or operator, and the utility company disturbs one or more acres of soil for the purpose of installation of utility service lines, including, but not limited to, residential electric, gas, telephone and cable lines, the utility company must apply for permit coverage from the city and state prior to commencement of construction.
3. Utility contractors working in a street right of way to repair existing or install new utilities and disturbing less than one acre shall obtain an excavation stormwater permit before commencing work. The utility contractor is required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to ensure that sediments resulting from their activity do not enter the stormwater system following construction. The street shall be swept within one working day of completion of utility installation on the site. All disturbed vegetation shall be replaced with mulch with seed or sod within seven (7) days of completion of utility installation on the site. The city will provide guidance

regarding acceptable temporary protection BMPs for inlets and methods to stabilize the exposed soil areas until they meet the definition of "final stabilization".

- E. Waivers: The city engineer may waive any requirement of this article upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement is not contrary to the objectives in this article. The city engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8A-4: MANAGEMENT OF SITE VEGETATION:**

Any landowner shall provide for the installation and maintenance of vegetation on their property in accordance with the following criteria, regardless as to whether or not a stormwater management plan or stormwater permit has been approved or is necessary under this chapter:

- A. Use Of Impervious Surfaces: No person shall apply items included in the definition of "prohibited discharge" on impervious surfaces or within stormwater drainage systems with impervious liners or conduits.
- B. Unimproved Land Areas: Except for driveways, sidewalks, patios, areas occupied by structures, landscaped areas, or areas that have been otherwise improved, all areas shall be covered by plants or vegetative growth.
- C. Use Of Pervious Surfaces: No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade watercourses, wetlands, or within wetland buffer areas. No person shall deposit items included in the definition of "prohibited discharge" except as noted above.

Failure to comply with this section shall constitute a violation and subject the landowner to the enforcement provisions, penalties and noncompliance fees outlined in [article F of this chapter](#). (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE B. STORMWATER MANAGEMENT PLAN; APPLICATION AND REVIEW**

### **3-8B-1: APPLICATION AND CONTENT:**

A written stormwater management plan application shall be filed with the city engineer as required by this article. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this article and the "Minnesota Stormwater Manual" (manual). Prior to applying for approval of a stormwater management plan, it is recommended that the applicant have the stormwater management plan reviewed by any affected public agencies. While it is not necessary it is desirable in some cases to combine the stormwater management plan and stormwater permit submittals in a single application.

Two (2) sets of legible copies of the drawings and required information shall be submitted to the city engineer and shall be accompanied by a receipt from the city to document the payment of all required fees for processing and approval as set forth in section [3-8B-2](#) of this article. Plans shall be prepared to a scale appropriate to the site of the project and suitable for performing the review.

At a minimum, the stormwater management plan shall contain the information outlined in the manual. A written stormwater management report discussing the pre- and postdevelopment hydrologic and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns shall also be provided. The contents of this report shall be in accordance with the recommended format in the manual. For additional information refer to [article C of this chapter](#). (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-2: APPLICATION FEE:**

A processing and approval fee adopted by the city council shall accompany all applications for stormwater management plan approval. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-3: PROCESS:**

A stormwater management plan meeting the requirements of this article shall be submitted to the city engineer for review and to determine its compliance with the standards as outlined in [article C of this chapter](#). The city engineer shall approve, approve with conditions, or deny the stormwater management plan. If a particular stormwater management plan involves a complex application or has the potential for significant controversy, the city engineer may bring the proposed stormwater management plan before the city council for consideration and public comment. Prior to initiating construction as outlined in the stormwater



management plan, the applicant must also obtain a stormwater permit. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-4: DURATION:**

Approval of any plan submitted under the provisions of this chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the city engineer for an extension of time to commence construction setting forth the reasons for the requested extension, the city engineer may grant one extension of not greater than one year. The city engineer shall acknowledge receipt of any request for an extension within fifteen (15) days. The city engineer shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised following the same procedure for an original approval. Provided, the city engineer may waive all or part of the application fee if the revision is minor. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original plan was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8B-5: CONDITIONS OF APPROVAL:**

A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure proper buffering, require the acquisition or dedication of certain lands or easements, and require the conveyance to the city of Moorhead or other public entity of certain lands or interests therein for stormwater system facilities. The city engineer may specify special requirements or conditions for specific major or minor watersheds within the city and its extraterritorial jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each subwatershed. Approval of a plan shall bind the applicant to perform and comply with all the requirements and conditions of the plan prior to commencing or concurrent with any land disturbing activities. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE C. STORMWATER MANAGEMENT PLAN; APPROVAL STANDARDS**

### **3-8C-1: GENERAL:**

This article describes the approval standards used to evaluate a proposed stormwater management plan. The city engineer shall not approve a stormwater management plan which fails to meet these standards. Other applicable standards, such as state and federal standards, shall also apply. If the standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies include, but are not limited to, the Buffalo Red River watershed district (BRRWD), Clay County, the Minnesota department of natural resources (DNR), the Minnesota department of transportation (MnDOT), the Minnesota pollution control agency (MPCA), the state historic preservation office (SHPO), the U.S. army corps of engineers, the U.S. environmental protection agency (EPA), federal emergency management agency (FEMA), and others. The city may choose to obtain some of the required permits. The applicant will be notified which permits are to be obtained by the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-2: STORMWATER MANUAL:**

The "Minnesota Stormwater Manual" (manual) contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and instructions for the development of an erosion and sedimentation control plan. Upon request the city will provide requirements for easements and rights of way, standard forms to be used, and standard construction details approved by the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-3: MODELS/METHODOLOGIES/COMPUTATIONS:**

Other than those outlined in the manual, any hydrologic models and/or design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities, shall be approved in advance by the city engineer. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall be signed by a professional engineer registered in the

state of Minnesota. This requirement will be met as part of a properly completed stormwater management plan. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-4: STORMWATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES:**

Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:

- A. Pre- Versus Posthydrological Response Of Site: An applicant shall install or construct, on or for the proposed land disturbing activity or development activity, all stormwater management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the outlet, or the stormwater management system, into which the site discharges or that would cause the stormwater management system to be overloaded or accelerate channel erosion as a result of the proposed land disturbing activity or development activity. Under no circumstances shall the 2-, 10-, or 100-year developed peak flow exceed the 2-, 10-, or 100-year existing peak flow without prior written approval by the city engineer. For regional detention or stormwater management system, the city engineer shall recommend a proposed system charge or assessment to be approved by the city council based upon an approved watershed master plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties directly or indirectly impacted by the regional detention or stormwater management system.
- B. Natural Features Of Site: The applicant shall give consideration to reducing the need for stormwater management system facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.
- C. Stormwater Management Strategies: The following stormwater management practices shall be investigated when developing a stormwater management plan:
  - 1. Natural infiltration of precipitation and runoff on site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;

2. Flow attenuation by use of open vegetated swales and natural depressions;
3. Stormwater detention facilities; and
4. Stormwater retention facilities (on a case by case basis).
5. Other facilities requested by the city engineer.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified. Justification shall be provided by the applicant for the method selected.

- D. Adequacy Of Outlets: The adequacy of any outlet used as a discharge point for proposed stormwater management system must be assessed and documented to the satisfaction of the city engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate postdevelopment runoff discharges and volumes without causing increased property damages or any increase in the established base flood elevation. If a floodplain or floodway has not been established by the federal emergency management agency (FEMA), the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a professional engineer registered in the state of Minnesota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the city engineer are approved and installed as part of the stormwater management plan. The assessment of outlet adequacy shall be included in the stormwater management plan.
- E. Stormwater Detention/Retention Facilities: Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the manual. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-5: OPERATION, MAINTENANCE AND INSPECTION:**

All stormwater management systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically 8 feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All stormwater management systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The city engineer may inspect all public and private stormwater management systems at any time. Inspection records will be kept on file at the city engineer's office. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management system for inspection and maintenance purposes. The city engineer shall retain enforcement



powers for assuring adequate operation and maintenance activities through permit conditions, penalties, noncompliance orders and fees.

The city engineer or his/her designated representative shall inspect all stormwater management systems during construction, during the first year of operation and at least once every five (5) years thereafter. The city will keep all inspection records on file for a period of three (3) years beyond the NPDES permit period. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-6: EASEMENTS:**

Easements may be required as conditions to the approval of a stormwater management plan and/or permit. If a stormwater management plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners any necessary easements or other property interests concerning the flowing of such water. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-7: PLAN APPLICABILITY:**

A stormwater management plan approval issued under this chapter runs with the land and is a condition of plat or development approval. Any landowner or subsequent landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision or modification of the plan. Failure to comply with this plan shall constitute a violation and subject the permittee, developer, and/or landowner to the enforcement provisions, penalties and noncompliance fees. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8C-8: PLAN AMENDMENTS:**

Stormwater management plans may be amended only by a written request submitted to the city engineer. This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. Provided, the city engineer may waive all or part of the fees if the amendment is minor. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## ARTICLE D. STORMWATER PERMITS

### 3-8D-1: PERMITS REQUIRED:

It is unlawful to initiate any land development activity, land disturbing activity, or other activities which may result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the city, without having first complied with the terms of this chapter. Other activities include those outlined in section [3-8A-3](#) of this chapter.

- A. Permit Application: All persons subject to meeting the requirements and needing to obtain a stormwater permit shall complete and file with the city engineer an application in the form prescribed by the city engineer and accompanied by a fee established by the city council. The permit application may need to be accompanied by a stormwater management plan as prescribed under [article B of this chapter](#), if such a plan has not been previously approved. Permit applications may be denied if the applicant is not in compliance on another stormwater permit currently in effect.
- B. Stormwater Permit: A stormwater permit must be issued from the city engineer for any land disturbing projects greater than five thousand (5,000) square feet. Activities that disturb one acre of land or more must also obtain a Minnesota pollution control agency NPDES/SDS general stormwater permit for construction activity. Commencing earthwork on a project prior to plan or permit approval is considered a violation of this chapter.
- C. Permit Delays: The city engineer may withhold granting approval of a stormwater permit until all issues associated with the site are resolved to the satisfaction of the city engineer. Permits may be conditioned with delays such that work cannot begin until a specified date or until after the site is inspected.
- D. Permit Conditions: Permits issued are subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city council. Permits may contain, but are not limited to, any of the following conditions:
  - 1. A system charge or assessment for a stormwater outlet utilizing a regional stormwater management system in accordance with a cost determined by the city engineer and approved by the city council for said outlet;
  - 2. Limits on the maximum rate of allowable stormwater discharge;
  - 3. Requirements for water quality of stormwater discharge;

4. Requirements for the installation, operation and maintenance of stormwater facilities including detention/retention or other treatment facilities;
5. Requirements for erosion and sediment control, including measures to be implemented and other procedures necessary to protect the stormwater system;
6. Compliance schedule;
7. Requirements for notification to and acceptance by the city engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality;
8. Easements as outlined in section [3-8C-6](#) of this chapter; and
9. Other conditions as deemed appropriate by the city engineer to ensure compliance with this chapter.

E. Permit Duration: Permits must be issued for a time period specified by the city engineer. The applicant, if necessary, shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the city engineer during the term of the permit as set forth in subsection F of this section. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original permit was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.

F. Permit Modification: The city engineer for just cause upon thirty (30) days' notice may modify stormwater permits. Just cause shall include, but not be limited to:

1. Promulgation of new federal, state or local regulatory requirements;
2. Changes in the requirements of this chapter;
3. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and
4. Changes in the design or capability of receiving stormwater systems.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

G. Permit Amendments: Stormwater permits may be amended (by applicant) only by a written request submitted by the permittee to the city engineer. This request shall contain the reason for the change and documentation related to any additional impacts which

may result from amendment approval. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines used for the stormwater permit applications under this article. Depending on the extent of the amendment, the city engineer may waive any additional fees for a permit amendment review.

- H. Permit Transfer: A permit runs with the property it covers, until the permitted activities are completed, and is transferable to new landowners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. Land transfers must be reported to the city engineer within seven (7) days of the transfer. This section refers to city issued permits and does not release the applicant or owner from transfer requirements of an NPDES/SDS permit including, but not limited to, a notice of termination/permit modification.
- I. Monitoring Facilities: The city engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater system component. Where at all possible, the monitoring facility shall be located on the applicant's property as opposed to being located on public rights of way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.
- J. Inspection: The city engineer may inspect the stormwater management system of any permittee to determine compliance with the requirements of this chapter. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:
  - 1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
  - 2. Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys and investigations.
  - 3. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
  - 4. Inspect the stormwater pollution control measures.
  - 5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be borne by the permittee.



- K. Inspections Of The Stormwater Pollution Prevention Plan's Measures: At a minimum, such inspections shall be done weekly by the permittee (general contractor, developer or the developer's designated representative), and within twenty four (24) hours after every storm or snowmelt event large enough to result in runoff from the site (approximately 0.5 inch or more in 24 hours). At a minimum, these inspections shall be done during active construction. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-2: CONSTRUCTION PLANS AND SPECIFICATIONS:**

- A. The plans and specifications prepared for the construction of the stormwater management system must be:
1. Consistent with the stormwater management plan approved by the city engineer, including any special provisions or conditions.
  2. In conformance with the requirements of the city of Moorhead's municipal specifications, "Minnesota Stormwater Manual" and any other necessary permits required and issued by other governmental agencies.
  3. Signed by a professional engineer registered in the state of Minnesota.
  4. Submitted to the city engineer for approval.
  5. Approved by the city engineer prior to commencing construction.
- B. The construction grading and erosion/sediment control plans, in a format acceptable to the city engineer, shall contain a drawing or drawings delineating the features incorporated into the stormwater pollution prevention plan (SWPPP) including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, including all BMPs. In addition the construction specifications shall contain technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMPs. The project SWPPP must be incorporated into the construction specification documents. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-3: CONSTRUCTION ACTIVITIES:**

Construction operations must at a minimum comply with any applicable federal or state permit and SWPPP in addition to the following best management practices:

- A. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or in any wetland.
- B. Waste And Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.
- C. Tracking Management: Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to minimize sediment from being tracked onto public or private roadways. Any material deposited by vehicles or other construction equipment onto a public or private road shall be removed (not by flushing) before the end of each working day.
- D. Water Quality Protection: The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.
- E. Site Erosion And Sedimentation Control: Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the "Minnesota Stormwater Manual" or other standards determined by the city engineer.
- F. Concrete Washout Area: All liquids and solid waste generated by concrete washout operations must be contained in a leakproof containment facility or impermeable liner. A compacted clay liner that does not allow washout liquids to enter groundwater is considered an impermeable liner. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8D-4: FINAL STORMWATER MANAGEMENT PLAN:**

Upon completion of all required construction activities, the permittee shall submit to the city engineer a final stormwater management plan to document any changes or material modifications to the original stormwater management plan concept. The final stormwater management plan shall contain record drawings showing the final configuration for all improvements as constructed. A professional engineer registered in the state of Minnesota shall certify the final stormwater management plan and record drawings. If no significant or material changes occurred between the approved plan and final construction, the record drawings need not be submitted to the city engineer. The permittee, however, is responsible to retain copies of said drawings and provide them to the city engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this chapter. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE E. SUSPENSIONS, REVOCATIONS AND STOP WORK ORDERS**

### **3-8E-1: STORMWATER VIOLATIONS AND REPORTING:**

A. Stormwater management plan, stormwater permit, and nonpermit related stormwater violations include, but are not limited to:

1. Commencing site grading or preparation work without first having obtained an NPDES/SDS stormwater permit for construction activity, or a city stormwater permit.
2. Noncompliance with the requirements or conditions attached to an approved SWPPP of an NPDES/SDS stormwater permit for construction activity, stormwater management plan, a city stormwater permit, or other standards established by the city engineer, under authority of the city.
3. The causing or allowing of a prohibited discharge in the city stormwater system, a natural watercourse, stormwater easement, stream or river.
4. Failure to remove sediments transported or tracked onto city streets by vehicles or construction traffic by the end of each working day.
5. Failure to install and maintain the erosion control measures (BMPs) on a construction site as outlined in the approved stormwater permit, SWPPP and its amendments, or other standards established by the city engineer, under authority of the city engineer.
6. Other violations or issues as noted or described throughout this chapter.

- B. The city engineer shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection or a public complaint followed by a site inspection. At a minimum the complaint file shall contain the name and address of the owner, date, time and nature of the violation as well as other information as deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint the file shall also, if voluntarily provided, contain the name, address and phone number of the individual filing the complaint. In addition, the complaint file shall contain records documenting subsequent site inspections, compliance actions and a memo outlining the determination of the city engineer and any enforcement action taken and/or any noncompliance fees levied. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-2: EMERGENCY SUSPENSION:**

The city engineer may for cause order the suspension of a stormwater management plan, or a stormwater permit when the city engineer determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If such permits are suspended, all work in the area covered by the permit shall cease immediately. If any person is notified of such suspension and then fails to comply voluntarily with the suspension order, the city shall commence whatever steps are necessary to obtain compliance. The city engineer may reinstate the stormwater management plan, or stormwater permit upon proof of compliance with all plan or permit conditions. The city engineer may also order the immediate suspension of all work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) is obtained.

Whenever the city engineer orders the suspension of a plan or permit and/or orders all work to stop pursuant to the emergency provisions of this section, the city engineer shall serve notice on the landowner and/or permittee personally, or by registered or certified mail. The landowner and/or permittee has the right to an informal hearing before the city engineer upon request made in writing and filed with the city engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the city engineer may affirm, modify or rescind the order.

Any person dissatisfied with an order the city engineer issued pursuant to this section may request a hearing pursuant to section [3-8E-5](#) of this article by filing a written request for a hearing with the city engineer, within fifteen (15) days of receipt of the order. The hearing must be held within ten (10) days of receipt of the request. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-3: NONEMERGENCY REVOCATION OF A PERMIT:**



- A. A stormwater management plan or stormwater permit may be revoked following notice. An opportunity for a hearing in accordance with sections [3-8E-4](#) and [3-8E-5](#) of this article will be provided. The city engineer may revoke a plan or permit for cause, including, but not limited to:
1. Violation of any terms or conditions of the applicable plan or permit;
  2. False statements on any required reports and applications;
  3. Obtaining a plan or permit by misrepresentation or failure to disclose fully all relevant facts; or
  4. Any other violation of this chapter or related ordinance.
- B. The city engineer may revoke a stormwater management plan or stormwater permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided in accordance with sections [3-8E-4](#) and [3-8E-5](#) of this article. Under a revoked plan or permit no additional permit approvals (i.e., excavation, etc.) shall be issued for any properties within the area included within the plan or permit boundaries until approved by the city engineer. In addition the city may deny new permits (i.e., stormwater, excavation, etc.) to the permittee or landowner in violation for projects in other locations until current permits are brought into compliance. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-4: NOTIFICATION:**

Whenever the city engineer finds that any person has violated or is violating this article, stormwater management plan or stormwater permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the city engineer shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the city engineer due to the nature of the violation, a plan satisfactory to the engineer for correction thereof must be submitted to the city engineer. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the city engineer may order all work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the city engineer, that person, within fifteen (15) days of the order of the city engineer, may request a hearing as provided in section [3-8E-5](#) of this article. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-5: HEARING:**

If a person requests a hearing to contest the order of the city engineer, a notice of hearing must be served on the person appealing the order, specifying the time and place of a hearing to be held regarding the order of the city engineer, and directing the person appealing to show cause why the order of the city engineer should not be upheld. Unless the engineer has suspended the permit or ordered work to stop pursuant to section [3-8E-2](#) of this article, any order stopping all work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the city manager or his/her designee, who then shall either uphold, modify or rescind the order of the city engineer. An appeal of the decision may be taken to the district court according to law. Provided, that if the city manager or his/her designee upholds the order stopping work, such work suspension shall not be stayed as a result of the appeal to the district court. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8E-6: LEGAL ACTION:**

The discharge of deposited or eroded materials onto public rights of way or public storm sewer systems within the city of Moorhead shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the landowner's and/or permittee's expense based on the properties from which they originated. The landowner and/or permittee shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the city engineer's direction and any associated costs shall be the responsibility of the landowner or permittee and, if unpaid within ninety (90) days, may be recommended for assessment action by the city council against property of the violator.

If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the city's stormwater management system contrary to the provisions of this chapter, federal or state requirements or any order of the city engineer, the city attorney may commence action for appropriate legal and/or equitable relief including administrative or criminal penalties. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE F. ENFORCEMENT**

### **3-8F-1: ENFORCEMENT, PENALTY AND NONCOMPLIANCE FEES:**

Any person who is found to have violated an order of the city engineer made in accordance with this chapter, or who has failed to comply with any provision of this chapter and the

orders, rules, regulations and permits issued hereunder, is guilty of an offense. Each day on which a violation occurs or continues to exist shall be deemed a separate and distinct offense. All land use and stormwater permits may be suspended until the applicant has corrected the violation. A schedule for noncompliance and reinspection fees, which may be imposed for violation of this chapter, shall be approved by the city council. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-2: COSTS OF DAMAGE:**

Any person violating any of the provisions of this chapter or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the city's stormwater management system is liable to the city for any expense, loss, or damage caused by the violation or the discharge. The city may bill the person violating this chapter the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-3: CITY ATTORNEY FEES AND COSTS:**

In addition to the civil penalties provided herein, the city may recover reasonable attorney fees, court costs, court reporter fees, and other expenses of litigation by appropriate action against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-4: FALSIFYING INFORMATION:**

Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, permit or other document filed or required to be maintained pursuant to this chapter, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this chapter shall be guilty of an offense. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8F-5: PENALTIES:**

Any person violating any provision of this chapter, in addition to other sanctions set forth above, may be charged with a criminal misdemeanor, and if convicted may be penalized in

accordance with the provisions of section [1-4-2](#) of this code, or alternatively, may be charged with an administrative violation pursuant to section [1-4-4](#) of this code. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE G. STORMWATER UTILITY AND STORMWATER MANAGEMENT FEE SYSTEM**

### **3-8G-1: FINDINGS:**

- A. The city maintains a system of underground and surface stormwater management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, and other components as well as natural waterways.
- B. The stormwater system in the city needs regular maintenance and improvements.
- C. Water quality of the Red River of the north can be degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.
- D. The public health, safety, and welfare can be adversely affected by periodic poor water quality within the Red River of the north and flooding that results from inadequate management of both the quality and quantity of stormwater.
- E. All real property in the city either uses or benefits from the maintenance of the stormwater system.
- F. The extent of use of the stormwater system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property.



- G. The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the impervious areas of their property on the stormwater management system.
- H. Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues, and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-2: ADMINISTRATION AND BUDGET:**

The city engineer, under the supervision and authority delegated by the city manager, shall advise the city manager and city council on matters related to the stormwater management program and to make recommendations to the city manager and city council concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the stormwater management program. The city engineer shall undertake the following activities to implement a stormwater management program:

- A. Prepare studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to stormwater within the city and to further the objectives of the stormwater management program, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the stormwater management program.
- B. Design, construct, operate, maintain, expand, or replace any element or elements of the public storm sewer system, including recommending the acquisition of easements by eminent domain, and recommending acquisition of title or easements other than by eminent domain, over any real or personal property that is part of, will become part of, or will protect the public storm sewer system, or is necessary or convenient for the implementation of the stormwater management program.
- C. Regulate, establish standards, review, inspect the design, construction or operation and maintenance of any stormwater management system that is under the control of private owners, whether or not such systems are required or intended for dedication to the public sewer system, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the public storm sewer system or the implementation of the stormwater management program.

- D. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the stormwater management system or in any way affect the implementation of the stormwater management program.
- E. Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing stormwater or water quality concerns.
- F. Analyze the cost of services and benefits provided by the stormwater utility and the structure of fees, service charges, credits, and other revenues on an annual basis and make recommendations to the city council regarding same.
- G. Undertake authorized expenditures as required to implement these activities, including all costs of capital improvements, operations and maintenance, debt services, and other costs as required.

The city council shall, as part of its annual budget process, adopt capital and operating budgets for the stormwater utility. The operating budget shall conform with state law, city policy and generally accepted accounting practices. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-3: DEFINITIONS:**

For the purposes of this article, the following words and phrases shall have the meanings indicated:

**BASE RATE:** The cost of service charge on a base unit. The monthly cost of service charge for a single-family residential property in the city equals the base rate.

**BASE UNIT:** The sample based average impervious surface area associated with a single-family residential property in the city.

**CHARGE OR COST OF SERVICE CHARGE OR STORMWATER MANAGEMENT FEE:** The monthly charge established under this chapter and charged to owners of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the city.

**CITY ENGINEER:** The city engineer for the city of Moorhead, Minnesota, or his or her designee.

**DEVELOPED PROPERTY:** Real property altered from its natural state by the addition of any improvements such as buildings, structures, or other impervious area.

**IMPERVIOUS SURFACE:** A surface which receives rainfall or other precipitation and is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or other surface which impedes the natural infiltration of surface water.

**IMPERVIOUS SURFACE AREA:** The number of square feet of horizontal surface covered by buildings and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

**MULTIPLE-FAMILY DWELLING:** A multiple-family dwelling consisting of two (2) or more dwelling units including manufactured homes. Multiple-family dwellings service multiple-family tenants with a common water meter(s).

**MULTIPLE-FAMILY TENANT:** Any single-family dwelling unit within a multiple-family dwelling consisting of two (2) or more family dwelling units including manufactured homes in manufactured home parks.

**OTHER DEVELOPED PROPERTY:** Metered nonresidential, nonmultiple-family, nonmultiple-family tenant, industrial and nonindustrial business enterprises, schools, parks, government and public customers. Nonmetered commercial tenant units are considered to be an integral part of the metered customer and are not considered individually.

**PROPERTY OWNER:** The property owner of record as listed in Clay County records. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

**SINGLE-FAMILY DWELLING:** Any single-family dwelling or multiple-family tenant with an individual water meter.

**STORMWATER MANAGEMENT:** The planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, floodplains, flood control, grading erosion, tree conservation, and sediment control.

**STORMWATER SYSTEM:** The system or network of storm and surface water management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basin, and other components as well as all natural waterways.

**STORMWATER UTILITY FUND OR FUND:** The fund created by this article to operate, maintain, and improve the city's stormwater management program.

**UNDEVELOPED PROPERTY:** Any property, including forest or agricultural land, which has

one-third ( $\frac{1}{3}$ ) or less of the base unit of impervious surface area.

WATER: Any stormwater, surface water, snowmelt or groundwater. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-4: ESTABLISHMENT OF STORMWATER UTILITY FUND:**

- A. The stormwater management program is established and the stormwater system is provided to protect the waterways and land in the city by controlling flooding and to protect the natural environment. The costs of designing, developing, improving, operating, maintaining, and monitoring the stormwater system required in the city should, therefore, be allocated, to the extent practicable, to all property owners based on their impact on the stormwater system. In order to provide revenue to fund those costs and to fairly allocate those costs, a stormwater utility fund ("the fund") is established.
- B. All revenues collected from the cost of service charge, grants, permit fees and other charges collected under this chapter shall be deposited to the fund. The city council may make additional appropriations to the fund. All disbursements from the fund shall be for the purposes of the fund as set forth in section [3-8G-5](#) of this article. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-5: PURPOSES OF THE FUND:**

The fund shall be used for the following purposes:

- A. The acquisition by gift, purchase or condemnation of real and personal property, and interests therein, necessary to construct, operate, and maintain stormwater control facilities.
- B. All costs of administration and implementation of the stormwater management program, including the establishment of reasonable operating and capital reserves to meet unanticipated or emergency stormwater management requirements.
- C. Engineering and design, debt service and related financing expenses, construction costs for new facilities and enlargement or improvement of existing facilities.



- D. Operation and maintenance of the stormwater system.
- E. Monitoring, surveillance, and inspection of stormwater control devices.
- F. Water quality monitoring and water quality programs.
- G. Retrofitting developed areas for pollution control.
- H. Inspection and enforcement activities.
- I. Billing and administrative costs.
- J. Other activities, which are reasonably required. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-6: STORMWATER COST OF SERVICE CHARGE:**

A monthly cost of service charge is imposed upon all real property in the city to fund stormwater management programs. This service charge shall be known as the stormwater cost of service charge or stormwater management fee. The charge is based on: a) the extent to which each property creates a need for the stormwater management program; b) the amount of impervious area on each property; and c) the cost of implementing a stormwater management program. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-7: CLASSIFICATION OF PROPERTY FOR PURPOSES OF DETERMINATION OF SERVICE CHARGE:**

- A. Classifications: For purposes of determining the stormwater cost of service charge all properties in the city are classified into one of the following classes:

1. Single-family dwelling;
2. Multiple-family dwelling;
3. Other developed property; or
4. Undeveloped property.

- B. Single-Family Dwelling Stormwater Cost Of Service Charge: The intensity of development of most parcels of real property in the city classified as single-family dwelling is similar and it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structure, and other impervious area) on each such parcel. Therefore, all single-family dwelling properties in the city shall be charged a flat stormwater cost of service charge, equal the base rate, regardless of the size of the parcel or the improvements.
- C. Multiple-Family Dwelling Stormwater Cost Of Service Charge: The charge for multiple-family dwelling property in the city shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. That result will then be indexed to a fee schedule, recommended by the city engineer and adopted by the city council, that groups properties with similar ranges of impervious area together. The impervious surface area of multiple-family dwelling property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum stormwater cost of service charge for multiple-family dwelling property shall equal the base rate for single-family dwelling property.
- D. Other Developed Property Stormwater Cost Of Service Charge: The charge for other developed property in the city shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one base unit. That result will then be indexed to a fee schedule, recommended by the city engineer and adopted by the city council, that groups properties with similar ranges of impervious area together. The impervious surface area of other developed property may be determined through site examination, mapping information, aerial photographs, and other available information. The minimum stormwater cost of service charge for other developed property shall equal the base rate for single-family dwelling property.
- E. Undeveloped Property: Undeveloped property shall be exempt from the stormwater cost of service charge. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-8: BASE RATE:**

The city council shall, by the city's fee schedule, establish the monthly base rate and charge schedule for the stormwater cost of service charge. The base rate shall be calculated to ensure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-9: CHARGES FOR TAX EXEMPT PROPERTIES; EXEMPTIONS:**

- A. The council finds that all real property in the city contributes to runoff and either uses or benefits from the maintenance of the stormwater system. Therefore, except as otherwise provided in this section, all real property in the city, including property that is tax exempt from property tax, shall be charged the monthly stormwater cost of service charge.
- B. Other developed property which is owned by the city shall not be exempt from the charge. However, public rights of way, public trails, public streets, public alleys, public sidewalks, and public lands and/or easements in or upon which public storm or sanitary sewers are constructed and/or located shall be exempt from the charge. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-10: STORMWATER COST OF SERVICE CHARGE CREDITS:**

The city council may, by resolution, establish a system of credits recommended by the city engineer, which may reduce the stormwater cost of service charge for approved stormwater runoff reduction or treatment. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-11: REQUESTS FOR CORRECTION OF THE STORMWATER COST OF SERVICE CHARGE:**

- A. A property owner may request correction of the charge by submitting the request in writing to the city engineer. Grounds for correction of the charge include:
  - 1. Incorrect classification of the property for purposes of determining the charge;
  - 2. Errors in the square footage of the impervious surface area of the property;

3. Mathematical errors in calculating the charge to be applied to the property;
  4. Errors in the identification of the property owner of a property subject to the charge;  
and
  5. Mathematical errors in calculating credits pursuant to section [3-8G-10](#) of this article.
- B. The city engineer shall make a determination within thirty (30) days after receipt of the property owner's completed written request for correction of the charge. The city engineer's decision on a request for correction of the charge shall be final.
- C. A property owner must comply with all rules and procedures adopted by the city when submitting a request for correction of the charge and must provide all information necessary for the city engineer to make a determination on a request for correction of the charge. If a property owner alleges an error under subsection A2 of this section, the request for correction must include a certification by a registered engineer or professional land surveyor of the impervious surface area of the property. Failure to comply with the provisions of this subsection shall be grounds for denial of the request. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

### **3-8G-12: RATE STRUCTURE EFFECTIVE DATE:**

The rate structure set forth within this article shall be effective January 1, 2006. All other provisions shall be effective immediately. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

## **ARTICLE H. PRIVATE CONNECTION TO A PUBLIC STORM SEWER**

### **3-8H-1: STORM SEWER CONNECTIONS:**

- A. Permit, General: No unauthorized persons shall uncover, make any connections with or opening into, use, alter or disturb any public storm sewer or appurtenance thereof without first obtaining an excavation and stormwater permit from the city.



- B. Permit Application: The owner or an agent of the owner shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent. A permit and inspection fee shall be paid to the city at the time the application is filed.
- C. Connection Costs: All costs and expense incident to the installation and connection of the private storm sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the storm sewer.
- D. Construction: The size, slope, alignment, materials of construction of a storm sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the building and plumbing codes (section [9-1-1](#) of this code) or other applicable rules and regulations of the city and the current regulations of the state of Minnesota. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing and Materials (ASTM) as approved by authorized city personnel shall apply. All connections must be locatable in accordance with [title 8, chapter 4](#) of this code and Minnesota rules section 7560. Upon completion, the owner must provide record drawings of the installation.
- E. Inspection: The applicant for the excavation permit shall notify the city when the private storm sewer is ready for inspection and connection to the public storm sewer. The connection shall be made under the supervision of authorized city personnel.
- F. Erosion Control: All excavations must use best management practices (BMP) to prevent sediment from entering the storm sewer system.
- G. Safety And Restoration: All excavations for storm sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to their original condition or to a better condition in a manner satisfactory to the city ([title 8, chapter 4](#) of this code). An excavation permit shall be required for all excavations made in the areas of city streets, sidewalks, parkways and other paved areas.
- H. Maintenance Responsibility: It shall be the responsibility of the owner to maintain the private storm sewer from their property line up to and including the point where it

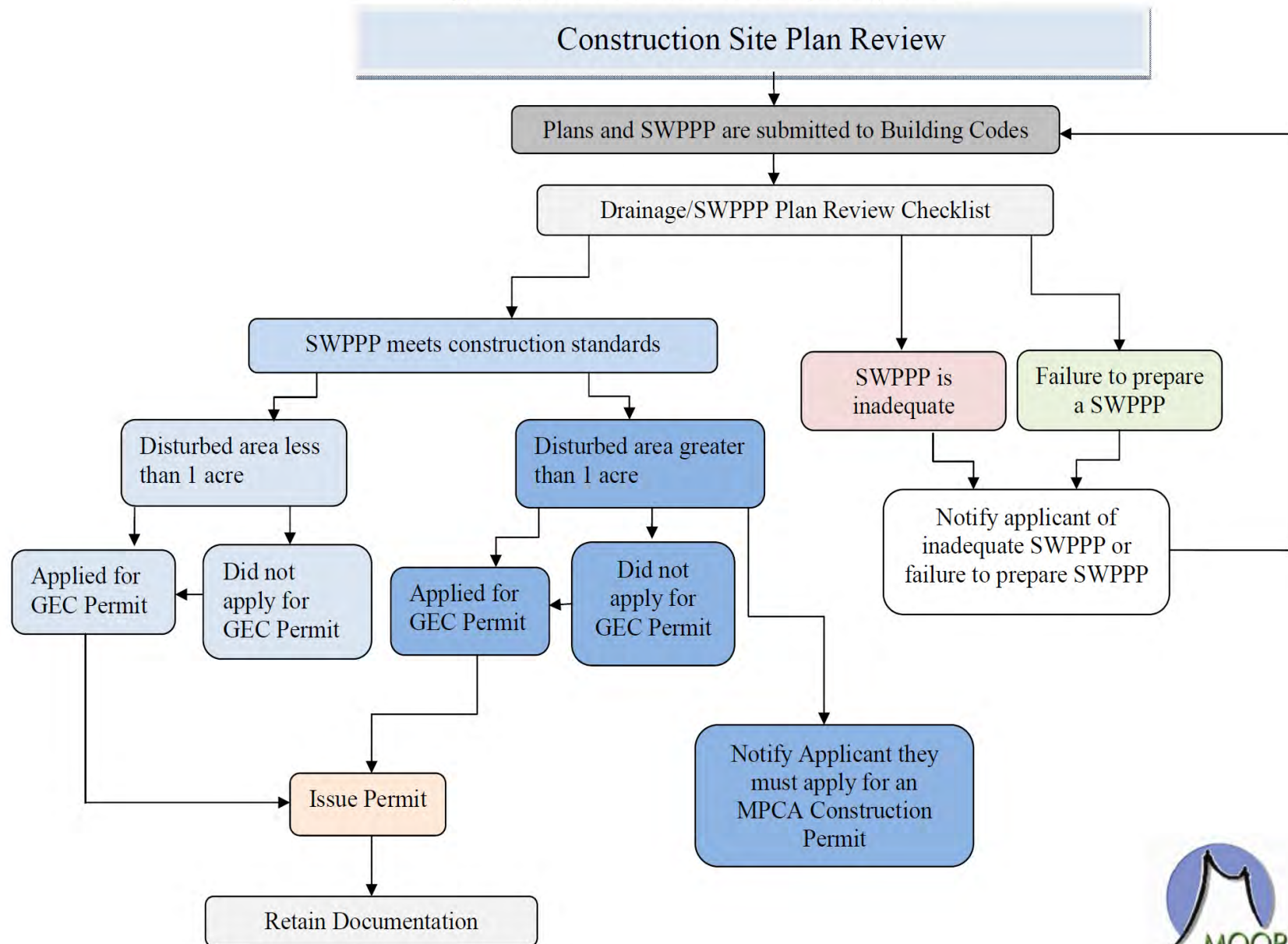
connects or discharges to the city storm sewer system, whether it is a direct connection to a storm sewer or discharges directly to a stormwater pond. This includes, but is not limited to, damaged pipe and appurtenances, bank erosion, sinkholes around the private storm sewer pipe, and the removal of any erodible materials that have entered the city storm sewer system from the private sewer connection. If the maintenance of the storm sewer requires excavation of the public right of way, the owner shall notify the engineering department and obtain an excavation permit prior to excavating. The contractor hired by the owner to repair the storm sewer shall follow the other requirements of subsection D of this section.

#### I. Payment For Costs As Special Assessment:

1. Although the cost of maintaining a private storm sewer is that of the owner, the city will allow the owner to pay for the cost of the maintenance of a private storm sewer as a special assessment under the following conditions:
  - a. The maintenance involves excavation of a public street.
  - b. The owner's maintenance cost is in excess of five hundred dollars (\$500.00).
  - c. The engineering department has reviewed and approved the invoice from the contractor hired by the owner.
  - d. The owner petitions the city to assess the cost within seven (7) days of the completion of the repair work.
2. If the above conditions are met, the city will initially pay the costs and spread as an assessment the principal amount of the owner's costs over ten (10) equal annual installments, with the interest rate on the assessment being set in the year the work is completed at the rate set for similar special assessments in that calendar year. (Ord. 2009-8, 7-27-2009, eff. retroactive to 4-1-2009)

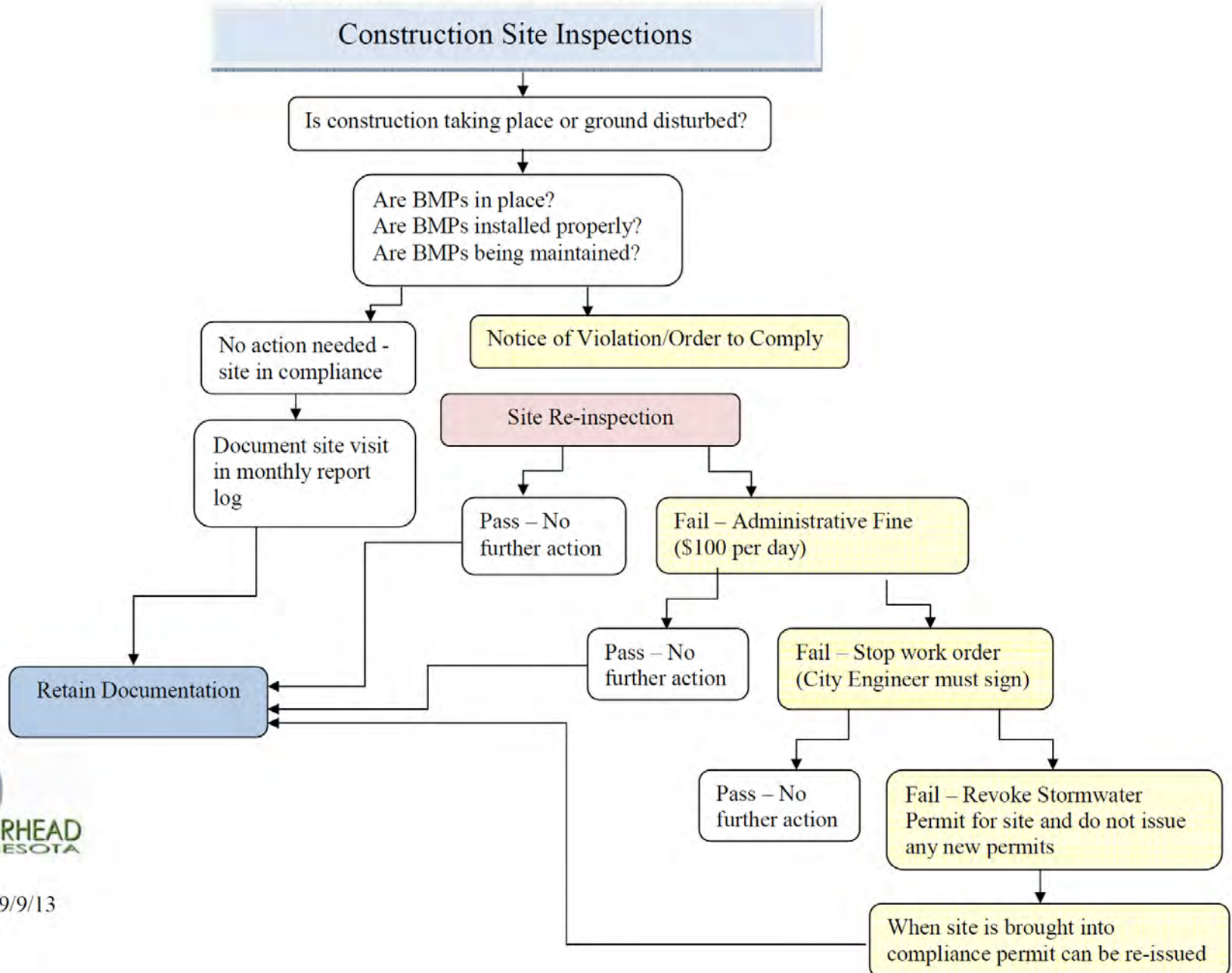
## Enforcement Response Procedures (ERPs) (MS4 Permit Part III.D.3)

*Typical procedures but other ERPs may be implemented*



## Enforcement Response Procedures (ERPs) (MS4 Permit Part II.D.3)

*Typical procedures but other ERPs may be implemented.*

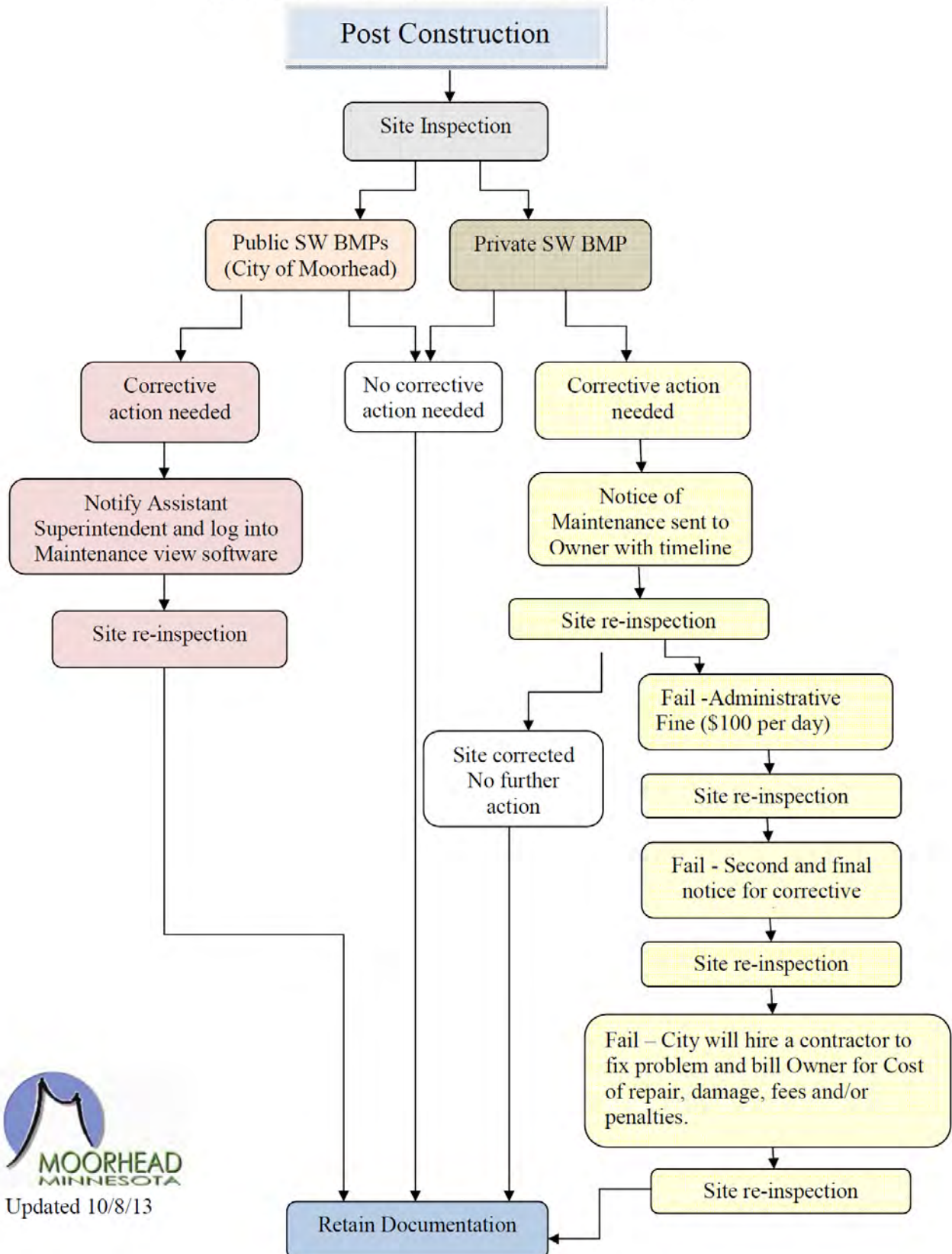


Updated 9/9/13



## Enforcement Response Procedures (ERPs) (MS4 Permit Part II.D.3)

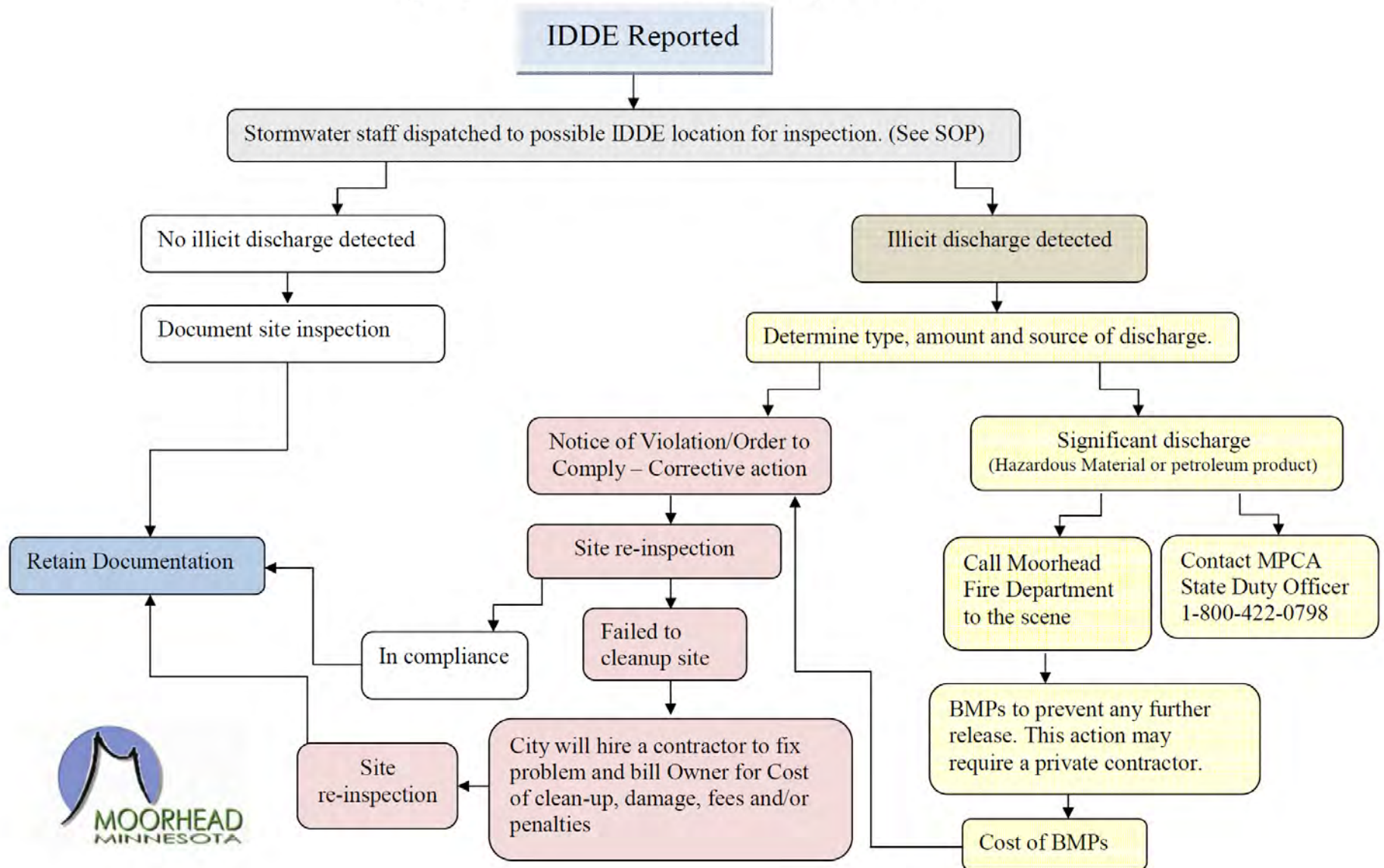
*Typical procedures but other ERPs may be implemented.*



Updated 10/8/13

# Enforcement Response Procedures (ERPs) (MS4 Permit Part II.D.3)

*Typical procedures but other ERPs may be implemented.*



Updated 10/5/13